



Jl-CO-003-001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

STEVEN RAY WEATHERS, SHANNON L.
SATRANG, and JAMES NOEL McCOWN,
minors, by and through their next
friend, CHERYL JACOBSON, on behalf
of themselves and all others
similarly situated,

Civil Action No.

Plaintiffs,

80-M-1238

vs.

FRANK TRAYLOR, Executive Director
of the Colorado Department of
Institutions, in his official
capacity;

CIVIL RIGHTS COMPLAINT
FOR INJUNCTIVE, DECLARATORY AND EQUITABLE
RELIEF AND DAMAGES.

ORLANDO MARTINEZ, Director of the
Colorado Division of Youth Services,
Colorado Department of Institutions
in his official capacity;

(CLASS ACTION)

RUBEN A. VALDEZ, Executive Director
of the Colorado Department of Social
Services, in his official capacity;

SECOND AMENDED
COMPLAINT

GILBERT R. SLADE, MRS. ANDREW
MARSHALL, MANUEL M. DIAZ, THOMAS C.
HICKMAN, M.D., FLORANGEL MENDEZ,
NONA B. THAYER, LARRY VALESQUEZ,
JAMES H. VINCENT, and VAN WOODARD,
as the members of the Colorado State
Board of Social Services, in their
official capacities;

MAXINE ALBERS, RICK ENSTROM, and
MICHAEL KELLY, as the Mesa County
Commissioners, and as the members of
the county board of social services
for Mesa County, individually and in
their official capacities;

JOHN PATTERSON, as Director of Mesa
County Social Services, individually
and in his official capacity;

JANE QUINBY, LOUIS BRACH, ROBERT
HOLMES, DALE HOLLINGSWORTH, KARL
JOHNSON, FRANK DUNN, and WILLIAM
O'DWYER, as the members of the
City Council of Grand Junction,
Colorado, individually and in
their official capacities;

RICK ENSTROM, ROBERT GERLOPS,
SAM KELLY, GENE LENDERMAN,
E.E. LEWIS, and FRANCIS RALEY, as
the members of the Board of
Directors of the Mesa County
Health Department, individually
and in their official capacities;

1 KENNETH LAMPERT, Public Health
2 Officer for Mesa County,
3 individually and in his official
4 capacity;

5 L.R. (DICK) WILLIAMS, Mesa County
6 Sheriff, individually and in his
7 official capacity;

8 RUFUS MILLER, Chief Probation
9 Officer, Mesa County Probation
10 Department, individually and in
11 his official capacity;

12 JAMES J. CARTER, WILLIAM M. ELA,
13 and CHARLES A. BUSS, as Judges of
14 the District Court, State of
15 Colorado, Twenty-First Judicial
16 District, in their official
17 capacities; and

18 MESA COUNTY, COLORADO,

19 Defendants.

20 INTRODUCTORY STATEMENT

21 1. This is a civil rights class action for declaratory,
22 injunctive, and other equitable relief and damages, brought by
23 a juvenile confined in the Mesa County Jail in Grand Junction,
24 Colorado, on behalf of himself and all other juveniles
25 similarly situated who are subjected by defendants to unlawful
26 secure detention in said jail, illegal detention in said jail
27 when said facility is used for the confinement of adult
28 offenders, denial of adequate and appropriate community-based
29 alternative placements, cruel, unconscionable and illegal
30 conditions of confinement in said jail and false imprisonment.

31 2. Plaintiffs bring this action under the federal Civil
32 Rights Acts, 42 U.S.C. §§1983 and 1988, to redress the
violation by defendants, acting under color of state law, of
plaintiffs' rights under the Fourteenth Amendment to the United
States Constitution, specifically plaintiffs' right to due
process of law, right to rehabilitative treatment in the least
restrictive setting and under the least restrictive conditions,
and right to freedom from cruel and unusual punishment.

1 Plaintiffs also bring this action under 42 U.S.C. §§1983 and
2 1988 to redress the violations by defendants, under color of
3 state law, of plaintiffs' rights under the Juvenile Justice and
4 Delinquency Prevention Act of 1974, 42 U.S.C. §5601 et seq.,
5 [hereafter, "Juvenile Justice Act"], as more particularly set
6 forth hereinafter.

7 3. Plaintiffs also bring this action under the Juvenile
8 Justice Act to challenge (a) the detention by defendants, in
9 Mes County Jail, a secure facility, of plaintiffs who are
10 charged with or who have committed an offense which would not
11 be criminal if committed by an adult; (b) the detention of
12 plaintiffs by defendants in Mesa County Jail, a facility used
13 for the confinement of adult offenders, and (c) the failure and
14 refusal of defendants to provide and utilize adequate and
15 appropriate community-based alternatives to placement of
16 plaintiffs in Mesa County Jail.

17 4. Plaintiffs also bring this action under Article II,
18 Section 3, 6, 20, 25 and 28 of the Constitution of the State of
19 Colorado, the Colorado Children's Code, C.R.S. (1973)
20 §§19-1-101 et seq., and Title 17, Section 26 et seq., Title 25,
21 Section 1 et seq., and §18-3-303 of the Colorado Revised
22 Statutes (1973).

23 JURISDICTION

24 5. This Court has jurisdiction of this action under 28
25 U.S.C. §1343(3), this being an action to redress the
26 deprivation under color of state law, of rights secured by the
27 Constitution of the United States, the Civil Rights Acts, 42
28 U.S.C. §§1983 an 1988, and the Juvenile Justice Act, 42 U.S.C.
29 §§5601 et seq.

30 6. This Court also has jurisdiction of this action under
31 2 U.S.C. §1343(4), this being an action to recover damages and
32 to secure declaratory, injunctive, and other equitable relief

1 under Acts of Congress providing for the protection of civil
2 rights, specifically the Civil Rights Acts, 42 U.S.C. §§1983
3 and 1988, and the Juvenile Justice Act.

4 7. This Court also has jurisdiction of this action under
5 2 U.S.C. §§2201 and 2202, and Rules 57 and 65 of the Federal
6 Rules of Civil Procedure, this being an action for a
7 declaration of the rights of plaintiffs, and for injunctive and
8 other equitable relief based upon said declaratory judgment,
9 under the Civil Rights Acts, 42 U.S.C. §§1983 and 1988, and the
10 Juvenile Justice Act.

11 8. This Court also has jurisdiction of this action under
12 2 U.S.C. §1331(a), this being an action wherein the matter in
13 controversy exceeds the sum of \$10,000 exclusive of interest
14 and costs, and arises under the Constitution and laws of the
15 United States.

16 9. This Court has jurisdiction of plaintiffs' state law
17 claims under the doctrine of pendent jurisdiction, which
18 permits federal courts to determine state law claims which form
19 separate but parallel grounds for relief also sought in
20 substantial claim based on federal law.

21 PLAINTIFFS

22 10. Plaintiff Steven Ray Weathers is a juvenile 17 years
23 of age, born on June 30, 1963. Prior to the events described
24 herein, Plaintiff resided in Green River, Utah, with Lanny
25 Averett, his stepfather. Plaintiff Shannon L. Satrang is a
26 juvenile 16 years of age, born on August 30, 1964. Prior to
27 the events described herein, Plaintiff resided in A.T.Y., 913
28 Grand Avenue, Grand Junction, Colorado. Plaintiff James Noel
29 McGown is a juvenile 17 years of age, born on June 26, 1963.
30 Prior to the events described herein, Plaintiff resided in
31 Fairfield, Alabama with _____, his parents.
32 Plaintiff _____ is a juvenile _____ years of

1 age, born on . Prior to the events
2 described herein, Plaintiff resided in
3 with , his . At the present
4 time, plaintiffs are confined at the Mesa County Jail in Grand
5 Junction, Colorado, as a result of the unlawful actions and
6 omissions of defendants described hereinafter.

7 DEFENDANTS

8 11. Defendant FRANK TRAYLOR is Executive Director of the
9 Colorado Department of Institutions, and defendant ORLANDO
10 MARTINEZ is Director of the Division of Youth Services in the
11 Colorado Department of Institutions. As such, said defendants
12 are responsible under C.R.S. (1973) §§27-1-101, 19-8-101,
13 19-8-117(1), and 19-8-120 for providing detention services for
14 temporary care of juveniles in the State of Colorado, for
15 providing for children in need of temporary protection or
16 correctional counseling, and for cooperating with appropriate
17 local units of government in order to facilitate training and
18 rehabilitation of juveniles in Colorado. Said defendants are
19 sued in their official capacities.

20 12. Defendant RUBEN A. VALDEZ is Executive Director of
21 the Colorado Department of Social Services, and defendants
22 GILBERT R. SLADE, MRS. ANDREW MARSHALL, MANUEL M. DIAZ, THOMAS
23 C. HICKMAN, M.D., FLORANGEL MENDEZ, NONA B. THAYER, LARRY
24 VALESQUEZ, JAMES H VINCENT, and VAN WOODARD, are the duly
25 appointed members of the Colorado State Board of Social
26 Services. As such, said defendants are responsible under
27 C.R.S. (1973) §§26-1-102, 26-1-105, 26-1-107, 26-1-108, and
28 26-1-111 for promoting the public health and welfare of the
29 people of the State of Colorado by providing and administering,
30 through the state department and through the county departments
31 in accordance with state department rules and regulations,
32 programs relating to public assistance and welfare, including

1 but not limited to child welfare services and rehabilitation
2 programs, for administering the establishment, extension, and
3 strengthening of child welfare services in cooperation with the
4 federal department of health, education and welfare and other
5 state or federal agencies, for cooperating with and utilizing
6 the available resources of the federal government and private
7 individuals and organizations for these programs, and for
8 supervising the county departments of social services. Said
9 defendants are sued in their official capacities.

10 13. Defendants MAXINE ALBERS, RICK ENSTROM, and MICHAEL
11 KELLY are the duly constituted County Commissioners of Mesa
12 County, Colorado. As such, said defendants are responsible
13 under C.R.S. (1973) §17-26-126 for making personal examination
14 of the Mesa County Jail, its sufficiency, and the management
15 thereof, and for correcting all irregularities and improprie-
16 ties therein found. Said defendants also act as the members of
17 the county board of social services for Mesa County. As such,
18 said defendants are responsible under C.R.S. (1973) §§26-1-102,
19 26-1-115, 26-1-116, 26-1-117, 26-1-118, and 26-1-119 for the
20 administration of public assistance and welfare and related
21 activities in the county in accordance with the rules and
22 regulations of the Colorado Department of Social Services.
23 Said defendants are responsible under C.R.S. (1973) §19-2-103
24 for providing shelter care facilities for children who are
25 taken from their homes but who do not require physical
26 restriction and who are not placed in detention. Said
27 defendants are sued individually and in their official
28 capacities.

29 13a. Defendant MESA COUNTY, COLORADO, is a local
30 government unit in the state of Colorado. In its capacity as a
31 local governing body, said defendant has implemented, executed,
32 and adopted the policies, practices, acts and omissions

1 complained of herein through formal adoption or pursuant to
2 governmental custom. The practices, acts and omissions
3 complained of herein, to the extent they are practices, acts
4 and omissions of county officials, are customs and usages of
5 defendants MESA COUNTY, COLORADO.

6 14. Defendant JOHN PATTERSON is Director of Mesa County
7 Social Services. As such said defendant is responsible under
8 C.R.S. (1973) §§26-1-102, 26-1-115, 26-1-116, 26-1-117,
9 26-1-118 and 26-1-119 for the administration of public
10 assistance and welfare and related activities in the county in
11 accordance with the rules and regulations of the Colorado
12 Department of Social Services. Defendant is responsible under
13 C.R.S. (1973) §§19-2-103 for providing shelter care facilities
14 for children who are taken from their homes but who do not
15 require physical restriction and who are not placed in
16 detention. Said defendant is sued individually and in his
17 official capacity.

18 15. Defendants JANE QUINBY, LOUIS BRACH, ROBERT HOLMES,
19 DALE HOLLINGSWORTH, KARL JOHNSON, FRANK DUNN, and WILLIAM
20 O'DWYE are the duly elected members of the City Council of
21 Grand Junction, Colorado. As such, said defendants are
22 invested with the power under C.R.S.(1973) §31-15-401 to
23 contract with the Mes County government for the use of the
24 county jail for confinement or punishment of offenders, subject
25 to such conditions as are imposed by law. Said defendants have
26 so contracted with actual and constructive knowledge of the
27 conditions existing at the Mes County Jail and the fact that
28 plaintiffs are and have been illegally confined in said
29 facility. Said defendants are sued individually and in their
30 official capacities.

31 16. Defendants RICK ENSTROM, ROBERT GERLOFS, SAM KELLY,
32 GENE LENDERMAN, E.E. LEWIS, and FRANCIS RALEY are the members

1 of the Board of Directors of the Mesa County Health Department.
2 As such, said defendants are responsible under C.R.S. (1973)
3 §§24-1-106, 25-1-107, 25-1-108, 25-1-505, 25-1-506, and
4 25-1-507 for enforcing the laws, rules and regulations of the
5 State Board of Health, for making any necessary sanitary and
6 health investigations and inspections, on their own initiative
7 or in cooperation with the State Department of Health, as to
8 any matters affecting public health within the jurisdiction of
9 the Department, and for cooperating with the State Board of
10 Health in improving health conditions and enforcing compliance
11 in all matters touching upon the public health in Mesa County.
12 Said defendants are also responsible for appointing and
13 overseeing the acts and activities of the Public Health Officer
14 of Mesa County. Said defendants are sued individually and in
15 their official capacities.

16 17. Defendant KENNETH LAMPERT is the duly appointed
17 Executive Director of the Mesa County Health Department, and
18 functions as the Public Health Officer of Mesa County. As
19 such, he is responsible under C.R.S. (1973) §25-1-508 for
20 administering and enforcing the public health laws of the State
21 of Colorado. He is also responsible for administering and
22 enforcing all orders, rules, regulations, and standards
23 promulgated by the State Board of Health. Said defendant is
24 sued individually and in his official capacity.

25 18. Defendant L.R.(DICK) WILLIAMS is the duly elected
26 sheriff of Mesa County. As such, said defendant is responsible
27 under C.R.S. (1973) §§17-26-102 and 17-26-103 for keeping the
28 Mesa County Jail clean, safe, and wholesome, as well as
29 maintaining the jail in good order and repair. Said defendant
30 is also responsible under C.R.S. (1973) §19-2-103(6) for the
31 care and rehabilitation of juveniles in his custody, and for
32 assuring the juveniles are kept separate from adult prisoners.

1 Said defendant is sued individually and in his official
2 capacity.

3 19. Defendant RUFUS MILLER is Chief Probation Officer for
4 the Mesa County Probation Department. As such, under C.R.S.
5 (1973) §§16-11-209, 16-11-210, 19-5-101, and 19-5-102, he is
6 granted authority by the Juvenile Court to conduct procedures
7 for the custody and detention of juveniles charged with
8 unlawful behavior. Said defendant is sued individually and in
9 his official capacity.

10 20. Defendants JAMES J. CARTER, WILLIAM M. ELA, and
11 CHARLES A. BUSS are judges of the Twenty-First Judicial
12 District of the State of Colorado, which District includes Mesa
13 County. Said defendants all serve at various times as judges
14 of the Juvenile Court and, pursuant to Rule 24 of the Colorado
15 Rules of Juvenile Procedure, authorize and determine the
16 admission, length of stay and release, of all juveniles who are
17 placed in shelter or detention or who are taken into custody,
18 including alleged delinquents, children needing oversight,
19 status offenders, and dependent and neglected children. Said
20 defendants are sued in their official capacities.

21 CLASS ACTION

22 21. Plaintiff brings this action on behalf of himself and
23 all others similarly situated, pursuant to Rule 23(a), (b)(1)
24 and (b)(2) of the Federal Rules of Civil Procedure. The class
25 consists of all juveniles who are currently, have been, during
26 the past two years, and in the future will be confined in the
27 in the Mesa County Jail.

28 22. The members of the class are so numerous that joinder
29 of all members is impracticable. According to the most recent
30 statistics available from the Division of Criminal Justice of
31 the Colorado Department of Local Affairs, 408 juveniles were
32 confined in the Mesa County Jail in 1979. In addition, there

1 are questions of law and fact common to the members of the
2 plaintiff class. The claims of the named plaintiff are typical
3 of the claims of the members of the plaintiff class. The named
4 plaintiff and his counsel will fairly and adequately protect
5 the interests of the members of the class.

6 23. The prosecution of separate actions by individual
7 members of the class would create a risk of inconsistent or
8 varying adjudications with respect to individual members of the
9 class which would as a practical matter be dispositive of the
10 interests of the other members not parties to the adjudications
11 or substantially impair or impede their ability to protect
12 their interests.

13 24. By their policies, the defendants have acted and
14 continue to act on grounds and in a manner generally applicable
15 to the class, thereby making appropriate final injunctive
16 relief or corresponding declaratory relief with respect to the
17 class as a whole.

18 25. The injuries suffered by plaintiff and members of the
19 plaintiff class as a result of the policies and practices of
20 defendants complained of herein are capable of repetition, yet
21 may evade review, thereby making class relief appropriate.

22 FACTUAL ALLEGATIONS

23 I. CONDITIONS AT MESA COUNTY JAIL

24 26. The Mesa County Jail is a two-story secure building
25 constructed in 1963, located at 655 Ute Avenue in Grand
26 Junction, Colorado.

27 27. The Mesa County Jail is utilized by defendants to
28 confine male and female juveniles. The facility also holds
29 male and female adults. Adult males are confined on the ground
30 and upper floors. Adult females are confined on the upper
31 floor. In the recent past, male juveniles were confined on the
32 upper floor and female juveniles were confined on the ground

1 floor. At the present time, male juveniles and female
2 juveniles are confined on the ground floor.

3 28. The Mesa County Jail is divided into seven (7)
4 different areas or cell blocks, all of which contain adults,
5 unless otherwise indicated:

6 (a) Cellblock A is approximately 16'6" x 40'11". It
7 is separated into a day room and a dormitory. The day room
8 contains two sets of tables and benches, a commode, sink and
9 shower. The dormitory contains eighteen (18) beds. There is
10 opaque glass in the ceiling part of the corridor adjoining
11 Cellblock A.

12 (b) Cellblock B is approximately 12' x 40'11". It
13 is separated into a day room and a dormitory. The day room
14 contain two sets of tables and benches, a shower, commode and
15 wash basin. The dormitory contains sixteen (16) beds. There
16 is some opaque glass in the ceiling.

17 (c) Cellblock C contains a day room approximately
18 18' x 9' and contains two tables and benches, a shower, toilet,
19 and sink. Cellblock C also contains two 4-man cells
20 approximately 9 x 9'; four one-man cells approximately 9' x 6';
21 and one 2-man cell approximately 9' x 6'. There are toilets
22 and sinks in all the cells and showers in the one-person cells.
23 There are some opaque skylights in the corridors adjoining
24 Cellblock C.

25 (d) Cellblock D is located on the second floor of
26 the jail. Until very recently it was commonly used for
27 juvenile mal prisoners. It consists of four double occupancy
28 cells approximately 9' x 7'. There is a corridor approximately
29 3-1/2' wide surrounding the entire cellblock. Three of the four
30 cells have solid steel walls and ceilings. The cells are
31 separated from the corridors by a steel door which has a small
32 glass observatio window, and a slot for a food tray. The fourth

1 cell has one barred wall. Each cell has a table, bench, sink,
2 toilet and shower, and a double decker bed.

3 (e) Cellblock E is located on the first floor of the
4 Mesa County Jail and has four (4) cells. Cell number 1 is
5 approximately 9' x 18' and contains only a concrete bench on two
6 sides of the cell. One wall is barred. Cell number 2 is
7 approximately 7' x 7' and has ceramic tile walls and one steel
8 wall. Cell number 3 is approximately 11' x 8' and contains two
9 double decker bunks (four beds), a urinal and sink and toilet
10 combination. All four walls are solid steel. Cell number 4 is
11 approximately 8' x 11' and contains four beds, and a commode/
12 sink combination. It has one barred and three steel walls.

13 (f) Cellblock F is located on the first floor. Until
14 recently it was utilized exclusively as the female prisoners'
15 section. It consists of two rooms approximately 20' x 12' which
16 are separated by a corridor. Each room contains a toilet, sink
17 and shower, which are in a separate private area adjacent to the
18 living area of the room. Until recently, adult females were
19 kept in one room and juvenile females are kept in the other.
20 The rooms are accessible through a solid steel door. There are
21 windows which open onto a small enclosed outdoor area. At the
22 present time, female adults are confined on the upper floor of
23 the jail, and male juveniles and female juveniles are confined
24 separately in the two rooms on Cellblock F.

25 (g) The area commonly designated as the Work Release
26 area is located on the second floor across from Cellblock D, the
27 male juvenile unit. It consists of a dormitory approximately
28 15' x 16' which contains approximately 14 double decker bunks
29 (28 beds) and two toilet and sink combinations. The dayroom is
30 approximately the same size and has 2 showers, 4 toilets and 2
31 tables with benches. Two walls of the Work Release area are
32 solid steel and the remaining 2 walls are barred. There is a

1 3-1/2' corridor that surrounds the barred walls and the walls of
2 this corridor are cinderblock.

3 29. The rated capacity of the Mesa County Jail consistent
4 with health care standards is fifty-six persons. The jail is
5 frequently overcrowded with adult and juvenile prisoners.

6 30. The cells and cellblocks in the Mesa County Jail in
7 which plaintiff and members of the class are confined are
8 unsanitary and infested with insects and vermin. The presence
9 of insects and vermin together with the overall unsanitary
10 conditions directly affect the health and morale of the
11 plaintiffs causing severe physical and emotional injuries.

12 31. Defendants fail to provide adequate containers for
13 disposal of refuse. Refuse is not promptly removed from the
14 cells and cellblocks. Cleaning supplies and disinfectants are
15 provided plaintiffs on an infrequent and haphazard basis even
16 when requested by the plaintiffs. The lack of cleaning supplies
17 makes it impossible to rectify the unsanitary conditions and to
18 maintain the cells and cellblocks in a clean, sanitary state.

19 32. Defendants provide towels on an infrequent and
20 haphazard basis if at all. Plaintiff and members of the class
21 are forced to reuse the same towel without fresh changes,
22 causing the towel to become filthy and stinking through
23 continued and repeated use.

24 33. The defendants provide bedding which is inadequate,
25 filthy and in disrepair. Mattresses provided plaintiffs are too
26 thin and often torn and soiled. Many mattresses are without
27 protective covering. Mattresses are not cleaned or fumigated on
28 a regular basis or between use by various inmates. Mattresses
29 and bedding are not fireproof. No sheets, pillows or pillow
30 cases are provided plaintiffs.

31 34. Defendants fail to provide plaintiff and members of
32 his class with clothing, and plaintiffs are forced to wear their

1 own clothing for the entire period of incarceration. Defendants
2 provide changes of clothing only if furnished by family or
3 friends of the juvenile.

4 35. Defendants fail to provide plaintiff and members of
5 the class with shampoo and disinfectants. Plaintiffs are thus
6 unable to adequately maintain personal hygiene. Plaintiffs must
7 purchase shampoo with their own funds.

8 36. As a result of the actions and omissions of
9 defendants, plaintiffs without money are unable to obtain
10 personal hygiene supplies, even though such supplies are to be
11 provided inmates free of charge, according to the Colorado State
12 Department of Health regulations.

13 37. The plumbing in Mesa County Jail is inadequate and in
14 disrepair. Sewers clog and back up, causing raw sewage to flood
15 some cells and cellblocks, which contribute to the overall
16 unsanitary conditions.

17 38. The ventilation in Mesa County Jail is inadequate.
18 Plaintiffs confined in the cells and cellblock do not have
19 access to fresh air. The air in the cells and cellblock is
20 often stale and musty. Temperatures in the cells are frequently
21 very hot or very cold. There are no windows in the cells or
22 cellblocks in which plaintiffs have been confined. The poor
23 ventilation and temperature control contribute to the
24 deterioration of the inmates' health and morale. The lack of
25 ventilation and other conditions in the jail violate the
26 regulations of the Colorado State Department of Health.

27 39. In the cellblock in which male juveniles have been
28 held, the only ventilation for some cells comes through the
29 narrow food slot in the solid metal door. Plaintiffs have been
30 forced to sleep on the floor in order to get any ventilation at
31 all.

32 40. Defendants provide lighting in the cells and

1 cellblocks which is dim and inadequate, and violates the
2 Standards of the State Department of Health. Since little or no
3 outside light enters the cells, the inadequate lighting makes
4 reading and writing by the plaintiffs difficult, if not
5 impossible.

6 41. In the summer months, in the upper floor cells in
7 which male juveniles have been confined, the single overhead
8 light serves only to increase the temperatures in the cells to
9 the point that plaintiffs have often draped a wet towel over
10 their heads to stay cool. In the cells in which plaintiffs are
11 presently confined, temperatures are often excessively hot or
12 excessively cold, depending on the season of the year.

13 42. Defendants have isolated plaintiff and members of his
14 class in cells for twenty-four hours each day, often without
15 access to natural light or fresh air.

16 43. Defendants fail to provide plaintiffs with any indoor
17 or outdoor physical exercise or social recreation. Those
18 library facilities and recreation materials defendants provide
19 are inadequate and only provided, if at all, after repeated
20 requests.

21 44. Defendants fail to provide adequate supervision of
22 plaintiffs by jail personnel, due to the fact that there are
23 insufficient numbers of jailers on all shifts to adequately and
24 safely oversee the operation of the jail.

25 45. Three staff are assigned to the day shift from 7:00
26 a.m. to 3:00 p.m.; two are assigned to the swing shift from 3:00
27 p.m. to 11:00 p.m.; and two are assigned to the night shift
28 from 11:00 p.m. to 7:00 a.m. One extra person is added to the
29 swing and night shifts for weekends (Friday, Saturday and
30 Sunday).

31 46. There is only one male juvenile jail officer on staff.
32 Said officer works day shift only. That officer is also

1 charged with transportation and any other matters pertaining to
2 juveniles that arise. Said officer's office is located on the
3 other side of the building from the area where juveniles are
4 confined. Said officer is insufficient to meet the needs of
5 male juveniles confined in the jail.

6 47. There is no female juvenile officer or female deputy
7 officer on staff for female adult or juvenile inmates. As a
8 result, there is no supervision of female juveniles. Moreover,
9 due to their isolation from jail staff, female juveniles
10 communicate with no one at the jail other than their occasional
11 visitors.

12 48. There is no training for jail personnel in identifying
13 and responding to problems of juveniles, nor is there trained
14 supervisory staff available to care for the juveniles
15 incarcerated at the Mesa County Jail. Defendants' failure to
16 provide trained staff results in lack of attention to the
17 problems of youth detained, lack of appropriate assessment of
18 the juveniles' physical and emotional needs, lack of education,
19 and lack of programs for the youth incarcerated at the Mesa
20 County Jail.

21 49. Defendants' failure to provide adequate staffing
22 results in delay or denial to plaintiffs of paper, pencils,
23 telephone calls, and to the extent available, towels and
24 bedding.

25 50. Plaintiff Steven Ray Weathers was taken into custody
26 on 9/3/80 for burglary. Plaintiff Shannon L. Satrang was taken
27 into custody on 9/21/80 for felony theft. Plaintiff James Noel
28 McCown was taken into custody on 9/19/80 for runaway. Plaintiff
29 was taken into custody on
30 for . Plaintiffs were placed in the Mesa
31 County Jail, where they are currently being held. Plaintiffs
32 are currently being subjected to the circumstances and

1 conditions complained of herein.

2 II. DETENTION OF JUVENILES IN MESA COUNTY JAIL

3 51. During 1979, 408 juveniles were confined in the Mesa
4 County Jail. Of this total, 272 were classified as
5 "Delinquents," a category comprising juveniles who were charged
6 with or who committed offenses which would be considered
7 criminal if committed by an adult. Such offenses include
8 offenses against persons, property, public peace, and other
9 miscellaneous offenses, including those which would be
10 considered misdemeanors if committed by an adult and offenses
11 which would be considered felonies.

12 52. Of the 408 juveniles confined in Mesa County Jails
13 during 1979, 72 were classified as "CHINS" ("Children in Need
14 of Supervision"), a category which includes runaways, children
15 considered beyond the control of the parent or guardian,
16 truants, children considered to be "endangering their own or
17 others' welfare" but who have committed no other offense,
18 children who are accused of "unspecified CHINS offenses," and
19 CHINOS ("Children in Need of Oversight").

20 53. Of the 408 juveniles confined in Mesa County Jail
21 during 1979, 56 were confined in the jail for "Other" reasons.
22 The "Other" category includes fish and game violations, muni-
23 cipal ordinance violations, court orders, holds for hearings,
24 holds for information, holds for other agencies, detention for
25 sentencing reasons, probation or parole violations, escapes from
26 official custody, and illegal aliens.

27 54. Of the 408 juveniles confined in Mesa County Jail
28 during 1979, 8 were confined for "unspecified" or "unknown"
29 offenses.

30 55. Defendants confine and detain in Mesa County Jail
31 significantly more juveniles than are similarly confined and
32 detained in other counties in Colorado. Current data on numbers

1 of juveniles confined in county jails in Colorado and juvenile
2 populations of the various counties indicate that proportion-
3 ately more juveniles are confined and detained in Mesa County
4 Jail than are confined and detained in any other county in the
5 state.

6 56. In addition, although Mesa County ranks tenth in total
7 population among all counties in Colorado, and tenth in popula-
8 tion of juveniles between the ages of 10 and 18, Mesa County
9 ranks second among all counties in Colorado in proportion of
10 juveniles in the county confined in jail as "Delinquents,"
11 second in proportion of juveniles confined in jail as "CHINS,"
12 fifth in proportion of juveniles confined in jail for "Other"
13 reasons, and sixth in total number of juveniles confined in
14 jail.

15 57. Moreover, within the general category of
16 "Delinquents," Mesa County ranks first among all counties in
17 Colorado in proportion of juveniles confined in jail for
18 "vandalism," first in proportion of juveniles confined in jail
19 for "driving under the influence," first in proportion of
20 juveniles confined for "probation or parole violation," second
21 in proportion of juveniles confined as "runaways," second in
22 proportion of juveniles confined for "criminal trespass," and
23 third in proportion of juveniles confined for "shoplifting."

24 58. During 1979, nineteen children under the age of
25 fourteen were detained in the Mesa County Jail.

26 59. Defendants knowingly confine and detain plaintiffs
27 without their consent and without proper legal authority.

28 III. SECURE DETENTION OF STATUS OFFENDERS AND
29 JUVENILES PRESENTING NO DANGER TO THEMSELVES
OR OTHERS

30 60. Since 1977, the State of Colorado has received funds
31 totalling \$2,896,000. from the federal Office of Juvenile
32 Justice and Delinquency Prevention, an agency of the Law

1 Enforcement Assistance Administration, which is part of the
2 United States Department of Justice. Said funds have been
3 granted to the State for implementation of the Juvenile Justice
4 Act.

5 61. Section 223(12) of the Juvenile Justice Act, 42 U.S.C.
6 §5633(12), provides that, in order to receive funding under the
7 Act, a State must comply with the requirement that juveniles who
8 are charged with or who have committed offenses which would not
9 be criminal if committed by an adult ("status offenses"), and
10 such nonoffenders as dependent or neglected children, shall not
11 be placed in secure juvenile detention or correctional
12 facilities. Instead, a State must require that such juveniles,
13 if placed in facilities at all, are placed in facilities which
14 are the least restrictive alternatives appropriate to the needs
15 of the child and the community, are in reasonable proximity to
16 the family and the home community, and provide "community-based"
17 services, as defined in 42 U.S.C. §5603(1).

18 62. The defendants regularly confine and detain in the
19 Mesa County Jail juveniles who are charged with or who have
20 committed offenses which would not be criminal if committed by
21 an adult. The "offenses" listed in the "CHINS" category,
22 described in Paragraph 50 above, are offenses which would not be
23 criminal if committed by an adult. Similar numbers of juveniles
24 in the same category have been confined in the Mesa County Jail
25 in previous years, and similar numbers will be confined in the
26 future unless plaintiffs are granted the relief requested
27 herein.

28 63. The Colorado Children's Code provides, in C.R.S.
29 (1973) §19-2-102, that when a child is taken into custody, the
30 officer shall notify a parent, guardian or legal custodian
31 regarding possible detention of the child. The statute also
32 provides that the child "shall then be released to the care of

1 his parents or other responsible adult, unless his immediate
2 welfare or the protection of the community requires that he be
3 detained.

4 64. The defendants regularly confine and detain in the
5 Mesa County Jail juveniles for whom neither their own immediate
6 welfare nor the protection of the community requires that they
7 be detained. None of the children confined in the "CHINS"
8 category described in Paragraph 50 above, none of the children
9 confined for "Other" reasons, as described in Paragraph 51
10 above, and few of the children confined as "Delinquents," such
11 as those confined for "vandalism," "driving under the
12 influence," "probation or parole violations," "runaway,"
13 "criminal trespass," or "shoplifting," as described in Paragraph
14 55 above, require detention for their own immediate welfare or
15 for the protection of the community. Similar numbers of
16 juveniles in the same categories have been confined in the Mesa
17 County Jail in previous years, and similar numbers will be
18 confined in the future unless plaintiffs are granted the relief
19 requested herein.

20
21 IV. DETENTION OF JUVENILES IN JAIL USED FOR
22 CONFINEMENT OF ADULTS

23 65. Section 223(13) of the Juvenile Justice Act, 42 U.S.C.
24 §5633(13), provides that, in order to receive funding under the
25 Act, a State must comply with the requirement that juveniles
26 alleged to be or found to be delinquent, and youths within the
27 purview of section 223(12) of the Act [described in Paragraph 57
28 above], shall not be detained or confined in any institution in
29 which they have regular contact with adult persons incarcerated
30 because they have been convicted of a crime or are awaiting
31 trial on criminal charges.

32 66. The defendants regularly confine and detain juveniles
alleged to be or found to be "delinquents," and juveniles

1 alleged to be or found to be status offenders, in the Mesa
2 County Jail, where such juveniles have regular contact with
3 adult persons incarcerated because they have been convicted of a
4 crime or are awaiting trial on criminal charges. During 1979,
5 408 such juveniles were confined and detained in said jail.
6 Similar numbers of juveniles have been confined and detained in
7 the Mesa County Jail in previous years, and similar numbers will
8 be confined and detained in the future unless plaintiffs are
9 granted the relief requested herein.

10 67. In its most recent report on confinement of juveniles
11 in Colorado jails, dated June 2, 1980, the Colorado Division of
12 Criminal Justice, a division of the Colorado Department of Local
13 Affairs, states that the Mesa County Jail is not in compliance
14 with the requirements of section 223(13) of the Juvenile Justice
15 Act.

16 68. The Colorado Children's Code provides, in C.R.S.
17 (1973) §19-2-103(6), that no child under the age of fourteen
18 and, except upon order of the court, no child fourteen years of
19 age or older and under sixteen years of age shall be detained in
20 a jail, lockup, or other place used for the confinement of adult
21 offenders or persons charged with crime. The exception for
22 children between the ages of fourteen and sixteen shall be used
23 by the court only if no other suitable place of confinement is
24 available. The statute also provides that a child fourteen
25 years of age or older shall be detained separately from adult
26 offenders or persons charged with crime, including any child
27 ordered by the court to be held for criminal proceedings
28 pursuant to §19-1-104(4).

29 69. The defendants regularly confine and detain juveniles
30 under sixteen years of age in the Mesa County Jail, which is
31 used for confinement of adult offenders or persons charged with
32 crime. Such juveniles are so confined when other suitable places

1 of confinement are available. During 1979, nineteen children
2 under the age of fourteen were detained in the Mesa County Jail.
3 Juveniles fourteen years of age and older detained in the Mesa
4 County Jail are not detained separately from adult offenders or
5 persons charged with crime. Juveniles have been similarly
6 confined and detained in Mesa County Jail in previous years, and
7 juveniles will be similarly confined and detained in the future
8 unless plaintiffs are granted the relief requested herein.

9 V. FAILURE AND REFUSAL TO PROVIDE AND UTILIZE
10 APPROPRIATE COMMUNITY-BASED ALTERNATIVES TO
11 PLACEMENT OF JUVENILES IN MESA COUNTY JAIL

12 70. Section 223(12) of the Juvenile Justice Act, 42 U.S.C.
13 §5633(12), requires States receiving funding under the Act to
14 provide non-secure placements for status offenders and
15 nonoffenders as alternatives to placement in jails and other
16 secure facilities. Such non-secure placements must be the least
17 restrictive alternatives appropriate to the needs of the
18 children and the community, must be in reasonable proximity to
19 the children's families and the home communities, and must
20 provide "community-based" services. Section 103(1) of the
21 Juvenile Justice Act, 42 U.S.C. §5603(1), defines "community
22 based" facility, program or service as "a small, open group home
23 or other suitable place located near the juvenile's home or
24 family and programs of community supervision and service which
25 maintain community and consumer participation in the planning,
26 operation, and evaluation of their programs which may include,
27 but are not limited to, medical, educational, vocational,
28 social, and psychological guidance, training, counseling,
29 alcoholism treatment, drug treatment, and other rehabilitative
30 services."

31 71. The Colorado Children's Code provides, in C.R.S.
32 (1973) §19-8-117(1), that detention services for temporary care
of a child shall be provided by the Colorado Department of

1 Institutions, which shall consult on a regular basis with the
2 court in any district where a detention facility is located
3 concerning the detention program at that facility.

4 72. The Colorado Children's Code provides, in C.R.S.
5 (1973) §19-2-103(6), that no child fourteen years of age or
6 older and under sixteen years of age may be detained in a jail,
7 lockup, or other place used for the confinement of adult
8 offenders or persons charged with crime if another suitable
9 place of confinement is available.

10 73. The defendants have failed and refused to provide and
11 utilize appropriate community-based alternatives to placement of
12 juveniles in Mesa County Jail. Instead the defendants regularly
13 confine and detain juveniles in Mesa County Jail. Juveniles in
14 Mesa County have similarly been denied access to, and placement
15 in, appropriate community-based alternatives and other suitable
16 places of confinement in previous years, and juveniles in Mesa
17 County will be similarly denied such placements in the future
18 unless plaintiffs are granted the relief requested herein.

19
20 VI. CRUEL, UNCONSCIONABLE AND ILLEGAL CONDITIONS OF
CONFINEMENT

21 74. Defendants regularly subject plaintiffs to the cruel,
22 unconscionable and illegal conditions of confinement described
23 in Paragraphs 26 through 49 above. Defendants have similarly
24 confined and detained juveniles in Mesa County Jail under such
25 conditions in previous years, and defendants will continue to
26 confine juveniles under such conditions in the future unless
27 plaintiffs are granted the relief requested herein.

28 VII. KNOWLEDGE AND INTENT OF DEFENDANTS

29 75. Defendant FRANK TRAYLOR, as Executive Director of the
30 Colorado Department of Institutions, and defendant ORLANDO
31 MARTINEZ, as Director of the Colorado Division of Youth
32 Services, are responsible under C.R.S. (1973) §§27-1-101,

1 19-8-101, 19-8-117(1), and 19-8-120 for providing detention
2 services for temporary care of juveniles in the State of
3 Colorado, for providing for children in need of temporary
4 protection or correctional counseling, and for cooperating with
5 appropriate local units of government in order to facilitate
6 training and rehabilitation of juveniles in Colorado. In such
7 capacities, said defendants knew or should have known of the
8 conditions and circumstances alleged in Paragraphs 26 through 74
9 above and taken action to correct them. Having failed to do so,
10 said defendants are in violation of federal law and the Colorado
11 Code sections listed above.

12 76. Defendant RUBEN A. VALDEZ, as Executive Director of
13 the Colorado Department of Social Services, and defendants
14 GILBERT R. SLADE, MRS. ANDREW MARSHALL, MANUEL M. DIAZ, THOMAS
15 C. HICKMAN, M.D., FLORANGEL MENDEZ, NONA B. THAYER, LARRY
16 VALESQUEZ, JAMES H. VINCENT, and VAN WOODARD, as members of the
17 Colorado State Board of Social Services, are responsible under
18 C.R.S. (1973) §§26-1-102, 26-1-105, 26-1-107, 26-1-108, and
19 26-1-111 for promoting the public health and welfare of the
20 people of the State of Colorado by providing and administering,
21 through the state department and through the county departments
22 in accordance with state department rules and regulations,
23 programs relating to public assistance and welfare, including
24 but not limited to child welfare services and rehabilitation
25 programs, for administering the establishment, extension, and
26 strengthening of child welfare services in cooperation with the
27 federal department of health, education and welfare and other
28 state or federal agencies, for cooperating with and utilizing
29 the available resources of the federal government and private
30 individuals and organizations for these programs, and for
31 supervising the county departments of social services. In such
32 capacities, said defendants knew or should have known of the

1 conditions and circumstances alleged in Paragraphs 26 through 74
2 above and taken action to correct them. Having failed to do so,
3 said defendants are in violation of federal law and the Colorado
4 Code sections listed above.

5 77. Defendants MAXINE ALBERS, RICH ENSTROM, and MICHAEL
6 KELLY, as the County Commissioners of Mesa County, are
7 responsible under C.R.S. (1973) §17-26-126 for making personal
8 examination of the Mesa County Jail, its sufficiency, and the
9 management thereof, and for correcting all irregularities and
10 and improprieties therein found. In addition, as the members of
11 the county board of social services for Mesa County, said
12 defendants are responsible under C.R.S. (1973) §§26-1-102,
13 26-1-115, 26-1-116, 26-1-117, 26-1-118, and 26-1-119 for the
14 administration of public assistance and welfare and related
15 activities in the county in accordance with the rules and
16 regulations of the Colorado Department of Social Services, and
17 said defendants are responsible under C.R.S. (1973) §19-2-103
18 for providing shelter care facilities for children who are taken
19 from their homes but who do not require physical restriction and
20 who are not placed in detention. In such capacities, said
21 defendants knew or should have known of the conditions and
22 circumstances alleged in Paragraphs 26 through 74 above and
23 taken action to correct them. Having failed to do so, said
24 defendants are in violation of federal law and the Colorado Code
25 sections listed above.

26 78. Defendant JOHN PATTERSON, as Director of Mesa County
27 Social Services, is responsible under C.R.S. (1973) §§26-1-102,
28 26-1-115, 26-1-116, 26-1-117, 26-1-118, and 26-1-119 for the
29 administration of public assistance and welfare and related
30 activities in the county in accordance with the rules and
31 regulations of the Colorado Department of Social Services, and
32 is responsible under C.R.S. (1973) §19-2-103 for providing

1 shelter care facilities for children who are taken from their
2 homes but who do not require physical restriction and who are
3 not placed in detention. In such capacity, said defendant knew
4 or should have known of the conditions and circumstances alleged
5 in Paragraphs 26 through 74 above and taken action to correct
6 them. Having failed to do so, said defendant is in violation of
7 federal law and the Colorado Code sections listed above.

8 79. Defendants JANE QUINBY, LOUIS BRACH, ROBERT HOLMES,
9 DALE HOLLINGSWORTH, KARL JOHNSON, FRANK DUNN, and WILLIAM
10 O'DWYER, as members of the City Council of Grand Junction,
11 Colorado, have contracted with the Mesa County government,
12 pursuant to C.R.S. (1973) §31-15-401, for the use of the county
13 jail for confinement or punishment of offenders, subject to such
14 conditions as are imposed by law. In such capacities, said
15 defendants are responsible for the conditions of the jail, and
16 knew or should have known of the conditions and circumstances
17 alleged in Paragraphs 26 through 74 above and taken action to
18 correct them. Having failed to do so, said defendants are in
19 violation of federal law and C.R.S. (1973) §31-15-401.

20 80. Defendants RICK ENSTROM, ROBERT GERLOFS, SAM KELLY,
21 GENE LENDERMAN, E.E. LEWIS, and FRANCIS RALEY, as the members of
22 the Board of Directors of the Mesa County Health Department, are
23 responsible under C.R.S. (1973) §§24-1-106, 25-1-107, 25-1-108,
24 25-1-505, 25-1-506, and 25-1-507, for enforcing the laws, rules
25 and regulations of the State Board of Health, for making any
26 necessary sanitary and health investigations and inspections, on
27 their own initiative or in cooperation with the State Department
28 of Health, as to any matters affecting public health within the
29 jurisdiction of the Department, for cooperating with the State
30 Board of Health in improving the health conditions and enforcing
31 compliance in all matters touching upon the public health in
32 Mesa County, and for appointing and overseeing the acts and

1 activities of the Public Health officer of Mesa County. In such
2 capacities, said defendants knew or should have known of the
3 conditions and circumstances alleged in Paragraph 26 through 74
4 above and taken action to correct them. Having failed to do so,
5 said defendants are in violation of federal law and the Colorado
6 Code sections listed above.

7 81. Defendant KENNETH LAMPERT, as the Executive Director
8 of the Mesa County Health Department, and as the Public Health
9 Officer of Mesa County, is responsible under C.R.S. (1973)
10 §25-1-508 for administering and enforcing the public health laws
11 of the State of Colorado, and the orders, rules, regulations and
12 standards of the State Board of Health. In such capacity, said
13 defendant knew or should have known of the conditions and cir-
14 cumstances alleged in Paragraphs 26 through 74 above and taken
15 action to correct them. Having failed to do so, said defendant
16 is in violation of federal law, C.R.S. (1973) §25-1-508, and the
17 Colorado Code sections listed in Paragraph 80.

18 82. Defendant L.R. WILLIAMS, as the sheriff of Mesa
19 County, is responsible under C.R.S. (1973) §§17-26-102 and
20 17-26-103 for keeping the Mesa County Jail clean, safe, and
21 wholesome, for maintaining the jail in good order and repair,
22 for insuring the care and rehabilitation of juveniles in his
23 custody, and for assuring that juveniles are kept separate from
24 adult prisoners. In such capacity, said defendant knew or should
25 have known of the conditions and circumstances alleged in
26 Paragraph 26 through 74 above and taken action to correct them.
27 Having failed to do so, said defendant is in violation of
28 federal law and the Colorado code sections listed above.

29 83. Defendant RUFUS MILLER, as Chief Probation Officer for
30 the Mesa County Probation Department, is responsible under
31 C.R.S. (1973) §§16-11-209, 16-11-201, 19-5-101, and 19-5-102 for
32 conducting procedures for the custody and detention of juveniles

1 charged with unlawful behavior, having been granted such
2 authority by the Juvenile Court. In such capacity, said
3 defendant knew or should have known of the conditions and
4 circumstances alleged in Paragraphs 26 through 74 above and
5 taken action to correct them. Having failed to do so, said
6 defendant is in violation of federal law and the Colorado Code
7 sections listed above.

8 84. Defendants JAMES J. CARTER, WILLIAM M. ELA, and
9 CHARLES A. BUSS, as judges of the Twenty-First Judicial District
10 of the State of Colorado, and serving as judges of the Juvenile
11 Court, are responsible under Rule 24 of the Colorado Rules of
12 Juvenile Procedure for authorizing and determining the
13 admission, length of stay, and release, of all juveniles placed
14 in shelter or detention or who are taken into custody. In such
15 capacities, said defendants knew or should have known of the
16 conditions and circumstances alleged in Paragraphs 26 through 74
17 above and taken action to correct them. Having failed to do so,
18 said defendants are in violation of federal law and Rule 24 of
19 the Colorado Rules of Juvenile Procedure.

20 85. As a proximate result of the policies, practices,
21 acts, and omissions of defendants complained of herein,
22 plaintiff and members of the plaintiff class have suffered and
23 will continue to suffer serious physical, psychological, and
24 emotional injuries.

25 86. All defendants have been notified of the conditions
26 and circumstances complained of herein, pursuant to the
27 provisions of C.R.S. (1973) §24-10-109. A copy of said notice
28 is attached to this Complaint, marked "Exhibit A," and
29 incorporated herein by reference.

30 LEGAL CLAIMS

31 87. For plaintiffs' claims, each enumerated below, they
32 reallege Paragraphs 1 through 86 above, as if fully set forth

1 herein, in each and every statement of claim, and further
2 allege:

3 FIRST CLAIM

4 88. Defendants' policies, practices, acts and omissions
5 complained of herein, and specifically defendants' secure
6 confinement and detention in Mesa County Jail of status
7 offenders and juveniles presenting no danger to themselves or
8 others, violate plaintiffs' rights under the Juvenile Justice
9 Act, 42 U.S.C. §5633(12); subject plaintiffs to denial of due
10 process of law, guaranteed by the Fourteenth Amendment to the
11 United States Constitution and Article II, Section 25, of the
12 Colorado Constitution; subject plaintiffs to cruel and unusual
13 punishments, in violation of the Eighth and Fourteenth
14 Amendments to the United States Constitution and Article II,
15 Section 20, of the Colorado Constitution; violate plaintiffs'
16 right to receive treatment in the least restrictive setting and
17 under the least restrictive conditions, guaranteed by the
18 Fourteenth Amendment to the United States Constitution, Article
19 II, Sections 3, 6, 25, and 28 of the Colorado Constitution, and
20 Colorado statutes; violate plaintiffs' rights under 42 U.S.C.
21 §1983; and violate plaintiffs' rights under the Colorado
22 Children's Code, C.R.S. (1973) §19-2-102.

23 SECOND CLAIM

24 89. Defendants' policies, practices, acts and omissions
25 complained of herein, and specifically defendants' detention and
26 confinement of juveniles in Mesa County Jail, a facility used
27 for confinement of adults, violate plaintiffs' rights under the
28 Juvenile Justice Act, 42 U.S.C. §5633(13); subject plaintiffs to
29 denial of due process of law, guaranteed by the Fourteenth
30 Amendment to the United States Constitution and Article II,
31 Section 25, of the Colorado Constitution; subject plaintiffs to
32 cruel and unusual punishments, in violation of the Eighth and

1 Fourteenth Amendments to the United States Constitution and
2 Article II, Section 20, of the Colorado Constitution; violate
3 plaintiffs' right to receive treatment in the least restrictive
4 setting and under the least restrictive conditions, guaranteed
5 by the Fourteenth Amendment to the United States Constitution,
6 Article II, Sections 3, 6, 25, and 28 of the Colorado
7 Constitution, and Colorado statutes; violate plaintiffs' rights
8 under 42 U.S.C. §1983; and violate plaintiffs' rights under the
9 Colorado Children's Code, C.R.S.(1973)§19-2-103(6).

10 THIRD CLAIM

11 90. Defendants' policies, practices, acts and omissions
12 complained of herein, and specifically defendants' failure and
13 refusal to provide and utilize appropriate community-based
14 alternatives to placement of juveniles in Mesa County Jail,
15 violate plaintiffs' rights under the Juvenile Justice Act, 42
16 U.S.C. §§5633(12), 5603(1); subject plaintiffs to denial of due
17 process of law, guaranteed by the Fourteenth Amendment to the
18 United States Constitution and Article II, Section 25, of the
19 Colorado Constitution; subject plaintiffs to cruel and unusual
20 punishments, in violation of the Eighth and Fourteenth
21 Amendments to the United States Constitution and Article II,
22 Section 20, of the Colorado Constitution; violate plaintiffs'
23 right to receive treatment in the least restrictive setting and
24 under the least restrictive conditions, guaranteed by the
25 Fourteenth Amendment to the United States Constitution, Article
26 II, Sections 3, 6, 25, an of the Colorado Constitution, and
27 Colorado statutes; violate plaintiffs' rights under 42 U.S.C.
28 §1983; and violate plaintiffs' rights under the Colorado
29 Children's Code, C.R.S. (1973) §§19-8-117(1) and 19-2-103(6).

30 FOURTH CLAIM

31 91. Defendants' policies, practices, acts and omissions
32 complained of herein, and specifically defendants' subjection of

1 plaintiffs to the cruel, unconscionable and illegal conditions
2 of confinement in the Mesa County Jail, subject plaintiffs to
3 denial of due process of law, guaranteed by the Fourteenth
4 Amendment to the United States Constitution and Article II,
5 Section 25, of the Colorado Constitution; subject plaintiffs to
6 cruel and unusual punishments, in violation of the Eighth and
7 Fourteenth Amendments to the United States Constitution and
8 Article II, Section 20, of the Colorado Constitution; violate
9 plaintiffs' right to receive treatment in the least restrictive
10 setting and under the least restrictive conditions, guaranteed
11 by the Fourteenth Amendment to the United States Constitution,
12 Article II, Sections 3, 6, 25, and 28 of the Colorado
13 Constitution, and Colorado statutes; violate plaintiffs' rights
14 under 42 U.S.C. §1983; and violate plaintiffs' rights under the
15 Colorado Children's Code, C.R.S. (1973) §19-1-101 et seq.

16 FIFTH CLAIM

17 92. Defendants' policies, practices, acts and omissions
18 complained of herein, and specifically defendants' knowing
19 confinement and detention of plaintiffs without plaintiffs'
20 consent and without proper legal authority, constitute false
21 imprisonment and subject plaintiffs to denial of due process of
22 law, guaranteed by the Fourteenth Amendment to the United States
23 Constitution and Article II, Section 25, of the Colorado
24 Constitution, and violate plaintiffs' rights under 42 U.S.C.
25 §1983 and C.R.S. (1973) §18-3-303.

26 NO ADEQUATE REMEDY AT LAW

27 93. As a proximate result of the defendants' policies,
28 practices, acts and omissions complained of herein, and the
29 conditions and circumstances described herein to which plain-
30 tiffs are subjected, the named plaintiff and the members of the
31 class he represents have suffered, do suffer, and will continue
32 to suffer immediate and irreparable injury., The named

1 plaintiff and the members of the class have no plain, adequate,
2 or complete remedy at law to redress the wrongs described
3 herein. Plaintiff and the members of the plaintiff class will
4 continue to be irreparably injured by the policies, practices,
5 acts and omissions of the defendants unless this Court grants
6 the injunctive relief which plaintiffs seek.

7 PRAYER FOR RELIEF

8 WHEREFORE, plaintiff, individually and on behalf of all
9 those similarly situated, prays that this Court:

10 A. Assume jurisdiction of this action;

11 B. Immediately order that the named plaintiff be released
12 from the Mesa County Jail to the custody of officials of the
13 Department of Social Services or the Department of Institutions
14 for placement in an appropriate least restrictive setting, or
15 released to the custody of parents or guardians until further
16 order of this Court;

17 C. Issue an order certifying this action to proceed as a
18 class action pursuant to Rule 23(a), (b)(1) and (b)(2) of the
19 Federal Rules of Civil Procedure;

20 D. Issue a declaratory judgment pursuant to 28 U.S.C.
21 §§2201 and 2202, and Rule 57 of the Federal Rules of Civil
22 Procedure, that the policies, practices, acts and omissions
23 complained of herein:

24 (1) violate plaintiffs' rights under the Juvenile
25 Justice Act, 42 U.S.C. §5601 et seq.;

26 (2) subject plaintiffs to denial of due process of
27 law, guaranteed by the Fourteenth Amendment to the United States
28 Constitution and Article II, Section 25, of the Colorado
29 Constitution;

30 (3) subject plaintiffs to cruel and unusual
31 punishment, in violation of the Eighth and Fourteenth Amendments
32 to the United States Constitution and Article II, Section 20, of

1 the Colorado Constitution;

2 (4) violate plaintiffs' right to receive treatment in
3 the least restrictive setting and under the least restrictive
4 conditions, guaranteed by the Fourteenth Amendment to the United
5 States Constitution, by Article II, Sections 3, 6, 25, and 28 of
6 the Colorado Constitution, and by the Colorado statutes;

7 (5) violate plaintiffs' rights under 42 U.S.C. §1983;

8 (6) violate plaintiffs' statutory rights under the
9 Colorado Code, as indicated above.

10 E. Issue a declaratory judgment pursuant to 28 U.S.C.
11 §2201 and 2202, and Rule 57 of the Federal Rules of Civil
12 Procedure, that defendant FRANK TRAYLOR, as Executive Director
13 of the Colorado Department of Institution, and defendant ORLANDO
14 MARTINEZ, as Director of the Colorado Division of Youth
15 Services, and their employees, agents, and successors in office,
16 shall be solely and exclusively responsible for providing
17 services for intake screening, assessment and evaluation, and
18 placement of all juveniles taken into custody or detained in
19 Mesa County.

20 F. Issue preliminary and permanent injunctions sufficient
21 to rectify the unconstitutional acts and omissions and statutory
22 violations alleged herein, as follows:

23 (1) Restraining and prohibiting defendants from
24 confining or detaining in Mesa County Jail or in any other
25 secure facility any juvenile who is charged with or who has
26 committed an offense which would not be criminal if committed by
27 an adult;

28 (2) Restraining and prohibiting defendants from
29 confining or detaining in Mesa County Jail any juvenile under
30 the age of fourteen years;

31 (3) Restraining and prohibiting defendants from
32 confining or detaining any juvenile fourteen years of age or

1 older in Mesa County Jail unless such juvenile is kept totally
2 separate and away from regular contact with adults confined in
3 said jail;

4 (4) Restraining and prohibiting defendant FRANK
5 TRAYLOR, as Executive Director of the Colorado Department of
6 Institutions, and defendant ORLANDO MARTINEZ, as Director of the
7 Colorado Division of Youth Services, and their employees,
8 agents, and successors in office, from failing to provide
9 adequate services for intake screening, assessment and
10 evaluation, and placement of all juveniles taken into custody or
11 detained in Mesa County;

12 (5) Restraining and prohibiting defendant FRANK
13 TRAYLOR, as Executive Director of the Colorado Department of
14 Institutions, and defendant ORLANDO MARTINEZ, as Director of the
15 Colorado Division of Youth Services, and their employees,
16 agents, and successors in office, from utilizing any detention
17 criteria more restrictive than the detention criteria previously
18 established by the Department of Institutions and the Division
19 of Youth Services and set forth in the "Memoranda of Agreement"
20 attached hereto as Exhibit B, in screening, assessing and
21 evaluating, and placing all juveniles taken into custody or
22 detained in Mesa County;

23 (6) Restraining and prohibiting defendants from
24 failing to provide adequate shelter care facilities for children
25 in Mesa County who are taken from their homes but who do not
26 require physical restriction and who are not placed in
27 detention;

28 (7) Restraining and prohibiting defendants from
29 failing to provide plaintiffs confined in Mesa County Jail with
30 any of the following:

31 (a) adequate living space in cells to avoid
32 overcrowding;

1 (b) adequate equipment and personnel to maintain
2 clean and sanitary living units, free from insects and vermin;

3 (c) basic hygiene and living supplies, including
4 but not limited to adequate soap, shampoo, toothbrush,
5 toothpaste, shaving implements, deodorant, towels, sheets,
6 mattresses, and clothing, to maintain reasonable cleanliness;

7 (d) adequate cleaning supplies and disinfectants,
8 and adequate means for disposal and removal of refuse;

9 (e) adequate equipment and personnel to provide
10 and maintain sufficient ventilation, lighting, and plumbing in
11 living units;

12 (f) reasonable and adequate access to and
13 facilities for exercise, recreation, and use of library
14 materials;

15 (g) sufficient staff, with appropriate training
16 for working with juveniles, to provide adequate supervision of
17 plaintiffs while confined and detained.

18 G. Issue preliminary and permanent injunctions restraining
19 and prohibiting defendants from transferring plaintiff or any
20 member of the plaintiff class to any other jail or any other
21 facility where there exist the conditions complained of herein;

22 H. Order the defendants to develop and implement a
23 comprehensive plan for the correction of the unlawful policies,
24 practices, acts and omissions complained of herein, and to
25 submit said plan to the Court and to the attorneys for
26 plaintiffs for review;

27 I. Appoint a Special Master to review and insure
28 implementation of the plan submitted by defendants and to
29 protect the rights of plaintiffs during the pendency of this
30 action;

31 J. Issue a judgment assessing general, special and
32 punitive damages against the defendants for the policies,

1 practices, acts and omissions complained of herein, in an amount
2 to be established by the proof;

3 K. Retain jurisdiction over defendants and each of them
4 until such time as the Court is satisfied that their unlawful
5 policies, practices, acts and omissions complained of herein no
6 longer exist and will not recur;

7 L. Award plaintiffs the cost of this proceeding,
8 attorneys' fees, and such other and further relief as to this
9 Court seems just and proper.

10 Dated this 3rd day of February, 1982.

11
12 *Philip J. Bertenthal*

13 PHILIP J. BERTENTHAL
14 MARK I. SOLER
15 YOUTH LAW CENTER
16 1663 Mission Street, 5th Floor
17 San Francisco, CA 94103
18 (415) 543-3379

19 ROBERT T. PAGE
20 The Sussex Building
21 1430 Larimer Square
22 Denver, CO 80202
23 (303) 572-1818

24 EDWARD A. LIPTON
25 American Civil Liberties Union
26 500 First National Bank Building
27 P.O. Box 40
28 Grand Junction, CO 81502
29 (303) 242-4903
30
31
32

PROOF OF SERVICE

I hereby certify that a copy of each of the foregoing documents: Request for Status Conference; Motion to Amend Complaint; Plaintiffs' Memorandum in Support of Motion to Amend Complaint, and Civil Rights Complaint for Injunctive, Declaratory and Equitable Relief and Damages (Class Action) - Second Amended Complaint, was mailed by United States Mail, postage pre-paid, to each of the following, on this 3rd day of February, 1982.

Alison Goodsill
ALISON GOODSILL

Robert T. Page
The Sussex Building
1430 Larimer Square
Denver, CO 80202
(303) 572-1818

Edward Lipton
P.O. Box 40
Grand Junction, CO 81502

Saran Scott Sammons
Assistant Attorney General
1525 Sherman Street, 3rd Fl.
Denver, CO 80203

Alan Bugg
P.O. Box 338
Grand Junction, CO 81502

Gerald J. Ashby
250 N. 5th
Grand Junction, CO 81502

James S. Casebolt
P.O. Box 1768
Grand Junction, CO 81502

Robert I. Williams
Dufford, Waldeck, Ruland, Wise & Milburn
P.O. Box 2188
Grand Junction, CO 81502

David R. Brougham
Hall and Evans
717 Seventeenth Street
Denver, CO 80202

William Higgins
Assistant Attorney General
1525 Sherman Street, 3rd Fl.
Denver, CO 80203