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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
JUN 17 1977
NATIONAL CLEARINGHOUSE
FOR LEGAL SERVICES

D. DOE, S. SMITH, G. JONES and)
C. ROE, by their next friend,)
P. SMITH, on behalf of themselves)
and all others similarly situated,)

Plaintiffs,)

vs.)

DON T. HOLLADAY, individually and in his)
official capacity as Superintendent of the)
Pine Hills School; LUTHER HUTTON,)
individually and in his official capacity)
as Assistant Superintendent of the Pine)
Hills School; GORDON JACKSON, individually)
and in his official capacity as Director)
of Clinical Services at the Pine Hills)
School; LARRY WILLIAMS, individually and)
in his official capacity as Assistant)
Director of Group Living at the Pine Hills)
School; CHARLES REGALADO, individually and)
in his official capacity as Group Living)
Attendant at the Pine Hills School; LAWRENCE)
ZANTO, individually and in his official)
capacity as Director of the Department of)
Institutions; DANIEL RUSSELL, individually)
and in his official capacity as Acting)
Administrator of the Corrections Division,)
Department of Institutions; THE DEPARTMENT)
OF INSTITUTIONS; and, THOMAS L. JUDGE,)
individually and in his official capacity)
as Governor of the State of Montana,)

Defendants.)

No. CV-77-74-BLG

21,562
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18p.

COMPLAINT

INTRODUCTION

1. This is a class action for declaratory, injunctive and other equitable relief, and damages, brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983. The named plaintiffs are presently confined in Montana's correctional institution for male juveniles, the Pine Hills School, located in Miles City. They seek to redress the deprivation under color of state law of rights, privileges and immunities secured to them and the class they represent by state law and the First, Third, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

1 Much of plaintiffs' complaint is directed at the maximum security unit
2 at Pine Hills. Plaintiffs challenge the inhumane and deplorable conditions
3 within the unit itself. They object to the procedure by which students are
4 incarcerated in the unit, a procedure which permits unlimited incarceration
5 without a hearing, without counsel, and without confrontation. They seek to
6 halt the psychological and physical damage to students occasioned by unlimited
7 incarceration in small dungeon-like cells for approximately twenty-three
8 hours a day as punishment for violations of institutional rules, generally
9 unwritten and unpublished. They seek to enjoin the policies and practices
10 of defendants which permit students who have been incarcerated in Clark Lodge
11 to be punished for intra-unit offenses, including noise-making: by macing,
12 by stripping, by handcuffing and shackling, and by the forcible intramuscular
13 injection of psychotropic drugs.

14 Another part of the complaint challenges the failure of defendants to
15 establish an effective, meaningful rehabilitation program at Pine Hills.
16 Plaintiffs especially deplore the failure to provide adequate mental health
17 care to students, including those whose problems are often exacerbated by the
18 conditions within the maximum security unit and the treatment they receive
19 there.

20 The balance of the complaint seeks relief from defendants' practice
21 of censoring mail and limiting correspondence and from defendants' failure to
22 promulgate rules governing the admission, custody, transfer, and release of
23 students at Pine Hills.

24 JURISDICTION

25 2. Jurisdiction over this action is conferred by 28 U.S.C. §1343(3)
26 and (4) and by 28 U.S.C. §1331(a). This court also has pendent jurisdiction
27 to determine the state law claims which form a separate but parallel ground
28 for relief also sought in a substantial claim based on federal law.

29 3. The amount in controversy exceeds, exclusive of interest and costs,
30 ten thousand dollars (\$10,000.00).

31 4. Plaintiffs' claims arise under 42 U.S.C. §1983 and 28 U.S.C. §§2201
32 and 2202.

1 making appropriate injunctive or declaratory relief with respect to the class
2 as a whole.

3 DEFENDANTS

4 13. DON T. HOLLADAY. Mr. Holladay is the Superintendent of the Pine
5 Hills School. He is charged by state law with responsibility for the immediate
6 management and control of that institution, subject to general policies and
7 programs established by the Department of Institutions. He is sued
8 individually and in his official capacity.

9 14. LUTHER HUTTON. Mr. Hutton is the Assistant Superintendent of the
10 Pine Hills School. As second in command, he is responsible for management
11 and control of the institution, subject to the direction of the Superintendent.
12 He is sued individually and in his official capacity.

13 15. GORDON JACKSON. Mr. Jackson is the Director of Clinical Services
14 at the Pine Hills School. He supervises all personnel, including counselors
15 and group living attendants, and is responsible for the order and discipline
16 of students. He is sued individually and in his official capacity.

17 16. LARRY WILLIAMS. Mr. Williams is the Assistant Director of Group
18 Living at the Pine Hills School. He hires and trains staff counselors and
19 schedules and assigns their duties. He also carries a full counseling
20 caseload and assists in maintaining order and discipline among students. He
21 is sued individually and in his official capacity.

22 17. CHARLES REGALADO. Mr. Regalado supervises the Group Living
23 Attendants within the maximum security unit at Pine Hills, Clark Lodge. He
24 is sued individually and in his official capacity.

25 18. LAWRENCE ZANTO. Mr. Zanto is the Director of the Department of
26 Institutions. He administers the department and its institutions, including
27 the Pine Hills School. He is sued individually and in his official capacity.

28 19. DANIEL RUSSELL. Mr. Russell is the Acting Administrator of the
29 Corrections Division of the Department of Institutions, which prescribes
30 general policy in the area of corrections for institutions, including the
31 Pine Hills School. He is sued individually and in his official capacity.

32 20. THE DEPARTMENT OF INSTITUTIONS. The department and its units are

1 responsible for the administration of laws relating to institutions within
2 Montana, including the Pine Hills School.

3 21. THOMAS L. JUDGE. Mr. Judge is Governor of the State of Montana.
4 Among his statutory duties is supervision of the executive branch of government,
5 which includes the Department of Institutions. He is sued individually and
6 in his official capacity.

7 FACTUAL ALLEGATIONS

8 22. The Pine Hills School is maintained and operated by the Department
9 of Institutions to properly evaluate, care for, train, educate, and rehabilitate
10 youths, between the ages of ten and twenty-one, committed for such services.
11 §80-1410, R.C.M.1947.

12 23. Capacity at Pine Hills is approximately 150 students. The school's
13 population averaged 131 during fiscal 1976. The length of commitment ranges
14 from forty-five days (for evaluation) to more than three years; the average
15 is nine months. The population includes both delinquents and youths in need
16 of supervision. Delinquents are youths who have committed criminal offenses
17 or who, having been placed on probation as delinquent youths or youths in need
18 of supervision, have violated a condition of their probation. Youths in
19 need of supervision are those who have violated state or municipal alcoholic
20 beverage laws, have disobeyed or been beyond the control of their parents,
21 have been habitually truant, or have committed criminal acts but been treated
22 by the court as youths in need of supervision. §10-1203 et seq., R.C.M.
23 1947.

24 24. There are approximately 108 employees at Pine Hills.

25 25. Students at the Pine Hills School are housed in six residential
26 units, called "lodges". In addition to the six lodges, the facilities
27 include: an administration building, containing administrative offices,
28 counseling offices, and an infirmary; a new vocational education building;
29 a new school and gymnasium; a small farm/ranch, dairy barn, and slaughter
30 house.

31 26. Clark Lodge is the maximum security unit at Pine Hills. Unlike
32 students in other lodges, those in Clark live in dungeon-like cement cells

1 locked behind heavy steel doors.

2 27. Two groups of cells, called Phase I and Phase II, are presently
3 being used in Clark. They line the north and east walls, respectively, of
4 the unit. Showers and toilets are located in an area common to both Phases,
5 called the day room. They are open to the view of other students, staff or
6 visitors.

7 28. The five Phase I cells are intended for solitary confinement. Each
8 of the windowless cement and steel cells measures approximately 5'x9' and is
9 empty except for a single steel bed frame bolted to the cement wall and a
10 basin/toilet unit in one corner. Some light for the dimly lit room comes
11 through glass brick in the outside wall but most of what light there is comes
12 through a mesh screen from a single bulb outside the cell.

13 29. The four Phase II cells are slightly larger than those in Phase I.
14 Each has two bunks, a window and a single light bulb, but no toilet.

15 30. All cell doors are solid steel with small screened or barred
16 windows, through which the day room is visible. Until recently, the windows
17 were covered so that cell occupants couldn't see into the day room.

18 31. Students in Clark are locked in their cells for approximately 23
19 hours a day. They are released separately to shower or perform menial work.
20 Each is allowed but seven minutes to shower and toilet. Normal verbal
21 communication between students locked in separate cells is often prohibited.
22 They are precluded from participation in all institutional activities and
23 programs. They are not permitted to attend school, although a tutor and study
24 materials are sometimes available. They are allowed to have only two books
25 in their cells at one time. They may occasionally see a social worker, but
26 there is no regular counseling. They are not allowed to sleep during the day.

27 32. Regardless of the season or the temperature in Clark, students
28 are permitted to wear only gym shorts and t-shirts. Each student is provided
29 with a mattress, pillow and bedding.

30 33. Clark students eat their meals while locked in their cells. The
31 meals are served on paper plates. One metal spoon is provided.

32 34. Phase II students are let out of their cells to go to the toilet,

1 if at least two staff members are on duty. If only one staff member is on duty,
2 students must wait until a second arrives. Students must toilet in public
3 view.

4 35. Vigorous large muscle exercise for Clark students is almost
5 non-existent. In cold weather, there is none; students spend limited time
6 outside their cells in an indoor room in an adjacent lodge, furnished with
7 cardtables and chairs. There is no tv or radio. Students play cards and other
8 sedentary games. In warm weather there is a limited amount of vigorous
9 exercise in an area adjacent to Clark, which is enclosed by a 12' cyclone
10 fence. Exercise periods are brief. On weekends there is no exercise,
11 sedentary or vigorous, indoors or outdoors. Students are caged the entire
12 time, except to shower and toilet.

13 36. Clark students are denied social visiting privileges, except in
14 rare instances when visits are of extremely restricted duration. Parents of
15 Clark students have been denied permission to visit their children, even though
16 they have been willing to travel, or have traveled, considerable distance to
17 visit.

18 37. There are no written rules or regulations indicating the conduct
19 which will result in incarceration in Clark Lodge. Students are confined there
20 for behavior which runs the gamut from the commission of a criminal act, such
21 as assault or theft, to failure to obey an order to stop chewing gum in a school
22 classroom or the violation of smoking regulations. There is no hearing before
23 an impartial tribunal either before or immediately after incarceration to
24 determine whether an institutional rule has been violated and whether cell
25 confinement is necessary. The decision to incarcerate lies within the
26 unfettered discretion of individual staff members. Students never know how
27 long they will be in Clark when they are initially incarcerated. Incarceration
28 may last for an hour or for many weeks.

29 38. Release from Clark is generally at the discretion of the "Adjustment
30 Committee", a group of staff members which meets on a fixed schedule. The
31 committee may include the person whose complaint lead to incarceration. Its
32 function is to decide when a student should be released from Clark; it does

1 not determine whether the student did what he was accused of doing or whether
2 he should have been placed in Clark. No written criteria exists to govern
3 the discretion of the Adjustment Committee.

4 39. Although the student is present when the Adjustment Committee meets,
5 he is not permitted the advice of counsel, nor the opportunity to confront
6 his accuser, nor the right to present evidence on his behalf. He does not
7 receive a written decision based solely upon evidence adduced at the hearing
8 specifying the particular rule violation and the length of incarceration,
9 nor does he have a right of appeal.

10 40. Noise-making has become a nearly ritualized escape from the
11 sensory deprivation and relentless boredom of the conditions within Clark
12 Lodge. Noise frequently reaches a deafening level. "Noise-making" is
13 considered an infraction of Clark rules and is punished: by verbal abuse,
14 by removal of the mattress, pillow and bedding from the offender's cell, by
15 stripping, by macing, by shackling and handcuffing, by taping the offender's
16 mouth, and by the forcible intramuscular injection of a psychotropic drug,
17 such as Thorazine.

18 41. As a means of controlling student behavior or as punishment for
19 intra-Clark infractions, defendants' policy and practice permits or condones
20 the use of psychotropic drugs, such as Thorazine.

21 42. Thorazine is a powerful tranquilizing drug which may be
22 administered by intramuscular injections, or oral dosages in either liquid or
23 tablet form. At Pine Hills, it has generally been administered intramuscularly,
24 without the student's consent, as punishment or as a control device, and not as
25 part of any continuing psychotherapy plan approved by a psychiatrist. No
26 medical examination precedes or follows administration of the drug.

27 43. As a means of controlling student behavior or as punishment for
28 intra-Clark infractions, defendants' policy and practice permits or condones
29 the use of mace, a caustic substance.

30 44. Students have been maced while locked inside their cells in Clark
31 Lodge. They have been deliberately sprayed in the face. There are no written
32 rules or regulations governing the use of mace, and decisions respecting its

1 use are within the unfettered discretion of individual staff members. No
2 medical examinations are made of those who have been maced.

3 45. As a means of controlling student behavior or as punishment for
4 intra-Clark infractions, defendants' policy and practice permits or condones
5 the use of handcuffing and shackling.

6 46. As a means of controlling student behavior or as punishment for
7 intra-Clark infractions, defendants policy and practice permits or condones
8 the taping of students' mouths.

9 47. Defendants frequently resort to the summary use of handcuffs and
10 shackles to restrain a student. Students are most often shackled to their
11 cell beds. A common reason for such punishment is noise-making. Students
12 have had their mouths taped to prevent further noise-making. There are no
13 written regulations or rules governing application of restraining devices, and
14 decisions respecting the use of such devices are within the uncontrolled
15 discretion of staff members.

16 48. As a means of controlling student behavior or as punishment for
17 intra-Clark infractions, defendants' policy and practice permits or condones
18 the stripping of students.

19 49. Students have been left naked in cells from which all personal
20 items, including mattress and bedding have been removed, regardless of the
21 cell temperature, for extended periods. Sometimes, other students are in
22 the cells. There are no written regulations or rules governing application
23 of such punishment, and decisions to strip a student are within the
24 uncontrolled discretion of staff members.

25 50. As a means of controlling student behavior or as punishment for
26 intra-Clark infractions, defendants' policy and practice permits or condones
27 verbal abuse by staff members.

28 51. Each of the named plaintiffs has been incarcerated in cells within
29 Clark Lodge on several occasions for periods ranging from several hours to
30 several weeks by the procedure and under the conditions heretofore described.

31 52. Each of the named plaintiffs has been punished for alleged
32 intra-Clark infractions. The punishment inflicted upon them is like that

1 imposed upon other students for similar violations.

2 53. While at Pine Hills, plaintiff DOE has frequently been in Clark
3 Lodge. He was once incarcerated for sixty consecutive days. As punishment
4 for intra-Clark infractions: he has had his mattress, pillow, sheets, and
5 other personal items removed from his cell; he has had mace deliberately
6 sprayed in his face; he has been stripped; he has been verbally abused.

7 54. On one occasion, plaintiff DOE wrote a letter to his mother
8 complaining about the way he was being treated at Pine Hills. He was not
9 permitted to mail it. Such censorship is consistent with school policy.

10 55. Plaintiff DOE has been forced to sleep on the floor of an over-
11 crowded Phase I cell.

12 56. Plaintiff SMITH was in Clark Lodge in May, 1976. Pursuant to
13 school policy, his father was denied visitation.

14 57. In March, 1977, plaintiff SMITH was also in Clark Lodge. His
15 father was told that he could not telephone or write plaintiff.

16 58. During his March, 1977 stay in Clark, staff members refused to
17 mail letters that plaintiff SMITH had written. Such censorship was permitted
18 by school policy.

19 59. In June or July, 1976, plaintiff JONES was punished for falling
20 asleep in the daytime in Phase I of Clark Lodge. His mattress, blanket, sheets,
21 and pillow were removed from his cell. He became angry and began yelling
22 obscenities. He was then taken from his cell, handcuffed and shackled, and
23 forced to lie on the cold day room floor. After ten or fifteen minutes,
24 he was returned to his cell. He continued to make noise so he was handcuffed
25 to the metal bed frame and his mouth was taped shut for about twenty minutes.

26 60. On one occasion in 1976, as punishment for an alleged intra-Clark
27 offense, plaintiff JONES was maced while in his cell. His mattress, blanket,
28 sheets and pillow had previously been removed. He was not allowed to wash,
29 nor was he provided with any medical care after the mace was sprayed into
30 the cell.

31 61. In April, 1977, plaintiff JONES was placed in solitary confinement
32 in Clark Lodge because allegedly he was caught attempting to steal a file from

1 the Vo-Tech building. Despite his claim of innocence and despite the fact that
2 he was not alleged to be dangerous, plaintiff was incarcerated without being
3 able to secure the advice of counsel, without being able to confront his
4 accusers, and without being able to present his view of the facts to an
5 impartial tribunal. Additionally, as punishment for resisting confinement,
6 he was stripped by staff members before being placed in his cell. He remained
7 naked and without a mattress, blanket, sheets or pillow for about one-half
8 hour. He was confined for three days.

9 62. On several occasions, the fact of plaintiff JONES' incarceration
10 in Clark Lodge was reviewed by a staff committee which included the staff
11 member responsible for the charge which resulted in incarceration.

12 63. More than once, plaintiff JONES has been stripped and left all
13 night without any bedding in a Clark cell with another student.

14 64. Plaintiff JONES was once required by staff members to rewrite a
15 letter he had written to his mother which was critical of Pine Hills. Such
16 censorship was permitted by school policy.

17 65. Plaintiff ROE has spent up to thirty consecutive days in Clark
18 Lodge. As punishment for alleged intra-Clark infractions: he has had his
19 mattress, blanket, sheets, pillow and other personal items removed from his
20 cell; he has been forcibly injected with Thorazine; he has been stripped for
21 several hours.

22 66. Although there are many dedicated individuals on the staff of
23 the Pine Hills School who work under difficult conditions for low pay,
24 defendants do not effectively provide plaintiffs with the rehabilitative
25 treatment to which they are entitled under Montana law, R.C.M.1947, §80-1410
26 and §10-1202, et seq. and the United States Constitution.

27 67. Students suffering from emotional illness and mental disorders
28 do not receive the special/^{attention}and treatment they need. There are no psychiatrists
29 or doctorate level psychologists on the Pine Hills staff. Staff members
30 who do attempt to provide minimal health care lack adequate training and are
31 unqualified. The staff and facilities are inadequate to provide mental
32 health care which meets minimal professional standards. The conditions of

1 confinement and practices previously enumerated in this complaint exacerbate
2 existing mental health problems and contribute to the onset of new problems.

3 68. The Pine Hills School lacks any valid, effective system for
4 assessment of youths sent to the school by district judges for pre-sentencing
5 evaluation or of students, including the named plaintiffs, confined to the
6 school. The present assessment staff is inadequate in size, qualifications,
7 and training to evaluate the treatment needs of students.

8 69. The counseling program at the Pine Hills School is deficient.
9 Contact between a student and his counselor generally is infrequent. Some
10 case workers are underqualified and undertrained. Caseloads are generally
11 too large to permit adequate individual counseling.

12 70. Defendant JACKSON, the Director of Clinical Services, holds a
13 masters degree in social work which qualifies him to participate in the
14 treatment of students, but not to supervise counselling and social work
15 services.

16 71. Defendant WILLIAMS, the Assistant Director of Group Living, has had
17 no formal education beyond high school, but he is allowed by defendants
18 to supervise other staff members and to carry a full counseling caseload.

19 72. Defendants routinely open, inspect, read, censor and/or withhold
20 mail to and from plaintiffs.

21 73. Defendants routinely limit the persons with whom plaintiffs may
22 communicate and the number and length of letters that they may write.

23 74. Defendants have failed to promulgate comprehensive rules for the
24 admission, custody, transfer and release of students at the Pine Hills
25 School, as required by §80-1405, R.C.M.1947.

26 75. Each of the named defendants has or should have knowledge of or
27 has personally participated in or condoned the policies, practices and
28 conditions heretofore enumerated, in deprivation of plaintiffs' statutory
29 and constitutional rights.

30 76. The adoption and enforcement by defendants of the deliberate
31 policies and practices heretofore described has resulted in an intentional and
32 malicious deprivation of plaintiffs' statutory and constitutional rights.

1 provided with written notice of the infractions of which they are accused,
2 and at which they are advised by counsel, confront their accusers, and
3 present evidence on their behalf, and the failure of defendants to make and
4 deliver to plaintiffs written decisions based solely upon evidence adduced
5 at the hearings specifying the particular rule violations and the duration
6 of incarceration, violates plaintiffs right to due process, guaranteed by
7 state law and the Fourteenth Amendment to the United States Constitution.

8 SIXTH CLAIM

9 82. The failure of defendants to recruit and employ personnel at the
10 Pine Hills School who are qualified, trained and supervised to effectively
11 assess the treatment needs of plaintiffs and deliver to them the rehabilitative
12 treatment to which they are entitled violates plaintiffs' right to treatment,
13 guaranteed by state law and the Fourteenth Amendment to the United States
14 Constitution.

15 SEVENTH CLAIM

16 83. Defendants' practice of routinely opening, inspecting, reading
17 and/or withholding mail to and from plaintiffs, of limiting the persons
18 with whom plaintiffs may communicate and of limiting the number of letters
19 that plaintiffs may write violates plaintiffs' right to treatment, guaranteed
20 by state law and the Fourteenth Amendment to the United States Constitution,
21 and plaintiffs' right to free speech, guaranteed by state law and the First
22 Amendment to the United States Constitution.

23 EIGHTH CLAIM

24 84. The failure of defendants to promulgate comprehensive rules
25 governing the admission, custody, transfer and release of students at the
26 Pine Hills School violates state law.

27 RELIEF REQUESTED

28 WHEREFORE, plaintiffs, individually and on behalf of all other persons
29 similarly situated, pray that this court:

- 30 1. Allow this action to proceed as a class action.
31 2. Issue a judgment declaring that the conditions and treatment of
32 plaintiffs within Clark Lodge, the maximum security unit at the Pine Hills

1 School, are so inhumane and deplorable that they violate plaintiffs' right
2 to be free from cruel and unusual punishment, guaranteed by state law and
3 the Eighth and Fourteenth Amendments to the United States Constitution and
4 plaintiffs' right to privacy, guaranteed by state law and the First, Third,
5 Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

6 3. Issue a judgment declaring that the conditions and treatment of
7 plaintiffs within Clark Lodge are punitive and anti-therapeutic and violate
8 plaintiffs' right to rehabilitative treatment, guaranteed by state law and
9 the Fourteenth Amendment to the United States Constitution.

10 4. Issue a judgment declaring that solitary confinement of plaintiffs
11 within a small cell other than as an extreme measure in emergencies to calm
12 uncontrollably violent behavior violates plaintiffs' right to be free from
13 cruel and unusual punishment, guaranteed by state law and the Eighth and
14 Fourteenth Amendments to the United States Constitution and plaintiffs' right
15 to rehabilitative treatment, guaranteed by state law and the Fourteenth
16 Amendment to the United States Constitution.

17 5. Issue a judgment declaring that the failure of defendants to
18 promulgate written rules giving notice of conduct which may result in
19 incarceration within Clark Lodge violates plaintiffs' right to due process,
20 guaranteed by state law and the Fourteenth Amendment to the United States
21 Constitution.

22 6. Issue a judgment declaring that the failure of defendants to
23 hold hearings before an impartial tribunal before or immediately after
24 incarcerating plaintiffs within Clark Lodge to determine whether an institution-
25 al rule has been violated and whether cell incarceration is necessary, prior
26 to which the plaintiffs are provided with written notice of the infractions of
27 which they are accused, and at which they are advised by counsel, confront
28 their accusers, and present evidence on their behalf, and the failure of
29 defendants to make and deliver to plaintiffs written decisions based solely
30 upon evidence adduced at the hearings specifying the particular rule
31 violations and the duration of incarceration, violates plaintiffs' right to
32 due process, guaranteed by state law and the Fourteenth Amendment to the

1 United States Constitution.

2 7. Issue a judgment declaring that the failure of defendants to
3 recruit and employ personnel at the Pine Hills School who are qualified,
4 trained and supervised to effectively assess the treatment needs of plaintiffs
5 and deliver to them the rehabilitative treatment to which they are entitled
6 violates plaintiffs' right to treatment, guaranteed by state law and the
7 Fourteenth Amendment to the United States Constitution.

8 8. Issue a judgment declaring that defendants' practice of routinely
9 opening, inspecting, reading and/or withholding mail to and from plaintiffs,
10 of limiting the persons with whom plaintiffs may communicate and of limiting
11 the number and length of letters that plaintiffs may write violates plaintiffs'
12 right to treatment, guaranteed by state law and the Fourteenth Amendment
13 to the United States Constitution, and plaintiffs' right to free speech,
14 guaranteed by state law and the First Amendment to the United States
15 Constitution.

16 9. Issue a judgment declaring that the failure of defendants to
17 promulgate comprehensive rules governing the admission, custody, transfer
18 and release of students at the Pine Hills School violates state law.

19 10. Grant preliminary and permanent injunctive relief enjoining,
20 restraining and prohibiting defendants, their agents, employees, successors
21 in office and other persons acting in concert with them:

22 a. from incarcerating plaintiffs in cells within Clark Lodge, the
23 maximum security unit at the Pine Hills School.

24 b. from confining plaintiffs within a small cell other than as an
25 extreme measure in emergencies to calm uncontrollably violent behavior.

26 c. from incarcerating plaintiffs in Clark Lodge without first
27 promulgating and publishing written rules giving notice of conduct which may
28 result in such incarceration.

29 d. from incarcerating plaintiffs in Clark Lodge without holding
30 hearings before an impartial tribunal before or immediately after incarceration
31 to determine whether an institutional rule has been violated and whether
32 such confinement is necessary, prior to which the plaintiffs are provided with

1 written notice of the infractions of which they are accused, and at which
2 they are advised by counsel, confront their accusers, and present evidence on
3 their behalf.

4 e. from incarcerating plaintiffs in cells within Clark Lodge after
5 a hearing at which it is determined that an institutional rule has been
6 violated and incarceration is necessary, without first making and delivering
7 to plaintiffs written decisions based solely upon evidence adduced at the
8 hearings specifying the particular rule violation and the duration of
9 confinement.

10 f. from opening, inspecting, and/or withholding mail to and from
11 plaintiffs, from limiting the persons with whom plaintiffs may communicate
12 and from limiting the number and length of letters that plaintiffs may write.

13 11. Order the defendants to promulgate comprehensive rules governing
14 the admission, custody, transfer and release of students at the Pine Hills
15 School.

16 12. Order defendants to consult with plaintiffs' attorneys and any
17 experts designated by them and thereafter within thirty days formulate
18 and implement a rehabilitation program for the students at the Pine Hills
19 School.

20 13. Order defendants to recruit and employ personnel with the
21 education and training to implement the rehabilitation program envisioned by
22 the preceding paragraph.

23 14. Appoint a master and an advisory group to oversee implementation
24 of the terms and conditions of the judgment entered in this action and to
25 report to the court any failures of defendants to comply with it.

26 15. Award each of the named plaintiffs compensatory and exemplary
27 damages of \$10,000.00 and \$12,500.00, respectively, for the palpable
28 deprivation of his constitutional rights.

29 16. Order defendants to pay plaintiffs' attorneys' fees and costs
30 of suit.

31 17. Grant such other relief as may be equitable and just.

32 18. Retain jurisdiction over this action.

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MONTANA LEGAL SERVICES ASSOCIATION

By: /s/ William J. Miele
William J. Miele
P. O. Box 1245
Miles City, Montana 59301
Telephone: 406-232-1066

/s/ Robert L. LaRoche
Robert L. LaRoche
2822 Third Avenue North
Behner Bldg., Suite B-12
Billings, Montana 59101
Telephone: 406-248-7113

NATIONAL JUVENILE LAW CENTER
St. Louis University
School of Law
3642 Lindell Boulevard
St. Louis, Missouri 63108
Telephone: 314-533-8868

By: Patricia Connell
David Howard

ATTORNEYS FOR PLAINTIFFS

Of Counsel:

Steven L. Bunch
MONTANA LEGAL SERVICES ASSOCIATION
601 Power Block
Helena, Montana 59601
Telephone: 406-442-9830