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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

JAN 2 - 1978

HERBERT T. HOPE
CLERK, U. S. DISTRICT COURT

BY _____
DEPUTY

TERRY D., ROMONDO P., DAVID L.,)
ROGER V., BYRON C., JEFFERY H.,)
LAURA C., REBECCA G. by their)
attorneys and next friends,)
Steven A. Novick and Richard L.)
Weldon, individually and on)
behalf of all other persons)
similarly situated,)

Plaintiffs,)

vs.)

L. E. RADER, individually and)
as Director of Public Welfare;)
CHASE GORDON, individually and)
as Coordinator of Bureau of)
Institutions and Community Ser-)
vices to Children and Youth;)
JOHN LEITKA, JR., individually)
and as Supervisor of Institu-)
tional Services; HAROLD WILSON,)
individually and as Superinten-)
dent of Oklahoma Children's)
Center-South Campus; BILL CAMP-)
BELL, individually and as Super-)
intendent of Oklahoma Children's)
Center-North Campus; R. L. DOYLE,)
individually and as Superintendent)
of Boley State School for Boys;)
BILL HARPER, individually and as)
Superintendent of Girl's Town;)
DAVID McCUNE, individually and)
as Superintendent of Helena State)
School for Boys; GARY HUNT, indi-)
vidually and as Superintendent of)
Whitaker State Children's Home;)
REGINALD BARNES, WILBUR CAVE,)
W. E. FARHA, LEON GILBERT, JANE)
HARTLEY, R. M. GREER, DEAN JAMES,)
SR., JOE VOTO and CARL WARD, in-)
dividually and as Commissioners)
of Public Welfare,)

Defendants.)

91V-78-0004T

NO.

COMPLAINT FOR DECLARA-
TORY AND INJUNCTIVE
RELIEF

RECEIVED

JAN 13 1978

NATIONAL CLEARINGHOUSE
FOR SOCIAL SERVICES

I.

PRELIMINARY STATEMENT

1. This is a class action for declaratory, injunctive and other equitable relief. The named plaintiffs and the class they represent are persons who have been or may be committed to the custody of the Department of Institutions, Social and Rehabilitative Services (also known as Department of Public Welfare and hereinafter "DISRS") as deprived children,

children in need of supervision or delinquent children, and institutionalized in DISRS facilities. All of the named plaintiffs are either confined at a DISRS institution, or on parole and subject to return to a DISRS institution.

2. Plaintiffs challenge the imposition of disciplinary measures, including solitary confinement and the suspension from school, without procedures comporting with due process of law as violative of the Fourteenth Amendment to the United States Constitution. Plaintiffs challenge the use and conditions of solitary confinement as a punitive, control device violative of the Eighth and Fourteenth Amendments to the United States Constitution. Plaintiffs also challenge the practices of interfering with their attorney-client privilege and of limiting their access to counsel as violative of the First and Sixth Amendments to the United States Constitution. Plaintiffs further challenge the inability and failure of defendants to provide them with appropriate habilitative and rehabilitative treatment in the least restrictive environment as violative of the Fourteenth Amendment to the United States Constitution and state law.

II.

JURISDICTION

3. This Court has jurisdiction of this action under 28 U.S.C. §§1343(3) and (4) and 28 U.S.C. §§2201 and 2202. Plaintiffs' action for equitable relief is authorized by 42 U.S.C. §1983, which provides for redress of deprivations under color of state law of rights, privileges and immunities guaranteed by the Constitution and laws of the United States. This Court also has pendent jurisdiction of claims under state law.

III.

PLAINTIFFS

4. The named juvenile plaintiffs bring this action on their own behalf and on behalf of all other juveniles

similarly situated in the State of Oklahoma. All of the named plaintiffs are under eighteen years of age, and are citizens of the United States and the State of Oklahoma.

IV.

DEFENDANTS

5. Pursuant to Title 10, Okla. Stats. §§1401 et seq. (Supp. 1977) (hereinafter cited in the form, eq. 10 O.S. §1401), DISRS has the "supervision, management, operation and control" of the public institutions for children in the State of Oklahoma. The institutions affected by this action are Oklahoma Children's Center, North and South Campus, at Taft, Oklahoma (hereinafter "Taft-North Campus" and "Taft-South Campus"); Boley State School for Boys at Boley, Oklahoma (hereinafter "Boley"); Girl's Town at Tecumseh, Oklahoma; Helena State School for Boys at Helena, Oklahoma (hereinafter "Helena"); and Whitaker State Children's Home at Pryor, Oklahoma (hereinafter "Whitaker"). Unless otherwise specified, all allegations hereinafter set forth relate to all of the aforesaid institutions.

6. Defendant L. E. Rader is the Director of Public Welfare. By virtue of 56 O.S. §162(a), 10 O.S. §§454 and 1403, and Okla. Const., Art. XXV, §4, said defendant is charged with the administrative and executive operation of DISRS, including responsibility for the supervision, management, operation and control of the named children's institutions.

7. Defendant Chase Gordon is an administrative assistant to L. E. Rader. Said Defendant is in charge of the Bureau of Institutions and Community Services to Children and Youth, and assists the Director of Public Welfare in the formulation of policy and regulations pertaining to the institutional care of children and juvenile parole services. The exact duties and responsibilities of said defendant are not known to plaintiffs.

8. Defendant John Leitka, Jr. is an immediate subordinate

of Chase Gordon. Said defendant is the Supervisor of Institutional Services to Children, and generally oversees the operation and maintenance of the children's institutions, and is responsible for carrying out DISRS policies relating to said institutions. The exact duties and responsibilities of said defendant are not known to plaintiffs.

9. Defendants Harold Wilson, Bill Campbell, R. L. Doyle, Bill Harper, David McCune and Gary Hunt are the institutional superintendents at Taft-South Campus, Taft-North Campus, Boley, Girl's Town, Helena and Whitaker, respectively. Each of said defendants is charged with the lawful day-to-day administration of the institutions, and the promulgation and execution of rules and regulations necessary for the fulfillment of that responsibility. Pursuant to 10 O.S. §1403(c), each of said defendants is the legal guardian of the person of each child in his institution.

10. Defendants Reginald Barnes, Wilbur Cave, W. E. Farha, Leon Gilbert, Jane Hartley, R. M. Greer, Dean James, Sr., Joe Voto and Carl Ward are the Commissioners of Public Welfare. Pursuant to 56 O.S. §162 and 10 O.S. §1403(a) the Commission has the responsibility for the formulation of policies and rules for the effective administration of DISRS, including the operation of the named children's institutions.

11. All defendants are sued individually and in their official capacities. Each defendant was and is acting under color of state law and by virtue of the authority vested in each of them by the laws of the State of Oklahoma in the capacities stated above.

VI.

CLASS ACTION

12. The named plaintiffs bring this action on their own behalf and on behalf of all other persons similarly situated in the State of Oklahoma, pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure (hereinafter "F.R.Civ.P."). The class consists of all children

who have been or may be adjudicated deprived, in need of supervision or delinquent, placed in the custody of DISRS and confined to one of named institutions operated by defendants. The class may be divided into six sub-classes according to the institutional placements of the children. The class, consisting of approximately 650 children, is so numerous that joinder of all members is impracticable. The following questions of law and fact are common to plaintiffs' class and predominate over any questions affecting only individuals: (1) whether defendants' summary imposition of disciplinary measures upon plaintiffs violates their rights under the United States Constitution; (2) whether defendants' use of solitary confinement and the conditions existing therein violates plaintiffs' constitutional rights; (3) whether defendants' practices and policies restricting plaintiffs' access to counsel is inconsistent with the United States Constitution; and (4) whether defendants, by failure to provide plaintiffs with appropriate habilitative and rehabilitative treatment in the least restrictive environment, violates plaintiffs' rights under the Constitution and laws of the United States and the State of Oklahoma. Plaintiffs are represented by attorneys associated with the Oklahoma County Public Defender Program, Legal Aid of Western Oklahoma and the National Juvenile Law Center, the latter two being projects funded and authorized pursuant to the Legal Services Corporation Act of 1974, 42 U.S.C. §§2996 et seq. (Supp. 1977), "to provide equal access of the system of justice in our Nation for individuals who seek redress of grievances" Plaintiffs' counsel are experienced in litigating matters raising significant issues of statutory and Constitutional law; thus, the interests of the class will be adequately represented by the named plaintiffs and their counsel. By their conduct regarding the alleged practices and policies herein, defendants have acted and refused to act on grounds

generally applicable to the named plaintiffs and their class, thereby making appropriate preliminary and final injunctive and declaratory relief as to the class as a whole.

V.

FACTUAL ALLEGATIONS

SOLITARY CONFINEMENT

13. Pursuant to 10 O.S. §1402, Girl's Town is operated and maintained primarily for females who have been adjudicated delinquent. Helena and Boley are primarily for males who have been adjudicated delinquent. Taft-North Campus, Taft-South Campus and Whitaker are operated primarily for children who have been adjudicated in need of supervision or deprived. Girl's Town is for females between the ages of eleven and eighteen. Boley holds males eleven through fifteen inclusive, and Helena holds sixteen and seventeen year old males. Taft-North Campus generally houses children nine to fifteen; South Campus, children sixteen to eighteen. Whitaker houses children up to age eighteen. Of the six institutions, Taft, North and South Campus and Whitaker accommodate both males and females.

14. All of the six institutions have rooms and/or cells that are used for solitary confinement, which is variously designated "detention", "isolation", "segregation", "separation", or "time-out". Each of the plaintiffs has been subjected to illegal solitary confinement at the named institutions.

15. Although institutional guidelines provide that a child charged with misconduct shall be given an opportunity to ask questions and state his views to the Disciplinary Committee, it is the established pattern and practice of the defendants, their agents and employees, to place children, including plaintiffs, in solitary confinement for several days prior to any appearance before the Disciplinary Committee. Some children charged with misconduct and placed in solitary confinement never even appear before the Disciplinary

Committee regarding such alleged misconduct.

16. Even when a child is brought before the Disciplinary Committee for alleged misconduct, there is no meaningful hearing or proceeding to determine whether or not there was, in fact, a rule violation, whether or not the child charged committed the violation and whether or not solitary confinement, or other disciplinary measures, is necessary or appropriate. Children are not permitted to confront witnesses against them. Children are given no opportunity to question their accusers. Neither counsel nor counsel substitute is present to represent children before the Disciplinary Committee. Children have no right to call witnesses or present evidence in their behalf. No written or oral notice of the charges is given. No written findings of fact or reasons sufficient to permit review are made. No appeal or review by the institutional superintendent is allowed.

17. Houseparents, school personnel and security personnel at all of the named institutions have in the past and continue in the present to summarily place children, including plaintiffs, in solitary confinement. It is often days before that summary decision is reviewed by the Disciplinary Committee.

18. At each institution there are written guidelines which purport to notify children of conduct which may result in solitary confinement or other punitive restrictions. Each list of written guidelines contains vague, ambiguous and overbroad terminology. The effect of such provisions is to permit the imposition of solitary confinement at the unbridled discretion of institutional personnel. Plaintiffs have been subjected to the arbitrary and capricious imposition of solitary confinement for alleged violations of such provisions. Additionally, there is conduct not specified in the written guidelines that can and has resulted in solitary confinement and other punitive restrictions. No special

effort is made to insure that each child in the institution, especially illiterate children, fully understands what conduct is prohibited.

19. Pursuant to written institutional guidelines, the following conduct is punishable by solitary confinement: missing school classes (considered AWOL at state training schools) and school suspension; not cooperating with a houseparent; cursing or name-calling; tattooing or ear-piercing; selling, trading or wearing another student's clothing; disrespect of a teacher; disruption of the institutional programs.

20. Children at the named institutions are placed in solitary confinement for periods ranging from several hours to several weeks. Children are placed in or continued in solitary confinement solely for the purpose of punishment and control at times when they do not constitute a danger to themselves or others.

21. At Taft-South Campus there are solitary confinement rooms in the boy's dormitory, the girl's dormitory and the limited privilege dormitory (hereinafter "LPD"). At Taft-North Campus there are solitary confinement rooms in each of the dormitories. The conditions existing within the solitary confinement rooms at Taft are as follows:

(a) The rooms have windows which are heavily screen-meshed or boarded up. Some rooms have no outside view and the windows cannot be opened.

(b) The rooms contain no toilets or other washroom facilities.

(c) Some of the rooms are filthy, unsanitary and smell of human waste.

(d) The rooms contain no furnishings whatsoever and are completely stripped. The floors are bare linoleum, tile or concrete. During the day, the only item allowed in the rooms is a blanket. At night only a bare mattress is provided.

(e) The rooms are not properly or safely heated, ventilated or cooled.

(f) Children in the rooms are deprived of their regular clothing and forced to wear only their underwear or pajamas, without shoes.

(g) Children in the rooms are not allowed daily exercise or recreation.

(h) Children in the rooms are not allowed to participate in the educational or rehabilitative treatment programs of the institution. No substitute programs are provided for children in solitary confinement.

(i) No books, magazines, newspapers or other reading materials are allowed for the children in solitary confinement.

(j) Handcuffs and leather restraints are sometimes used on children in solitary confinement.

(k) Children in the rooms are not allowed to sleep during the day.

(l) Daily showers are not provided.

22. In addition to the solitary confinement rooms described above, there is a small broom closet in the LPD of Taft-South Campus known as "the hole". It has no windows, no toilet, no lighting and is approximately three feet by six feet in size. This room has been and is being used for institutional runaways and at times when the other solitary confinement rooms are full.

23. At Taft-South Campus when there are a large number of children to be locked up, many children are placed in the same solitary confinement room. During such large scale lock-ups, children have been physically and sexually attacked by other children. No effort is made by institutional personnel to prevent or break-up such assaults.

24. At Girl's Town there is one area used for solitary confinement. It is located in the basement of the

reception building, and consists of fourteen barred cells and one padded room. The conditions existing within the solitary confinement cells at Girl's Town are as follows:

(a) The cells are barred and are approximately five feet by eight feet in size. Each cell is separated from its neighbor by a concrete wall.

(b) The cells are filthy, unsanitary and vermin-infested.

(c) The cells contain only a metal palette attached to the wall, which serves as a bed, and a primitive toilet with no privacy. At night only a mattress is provided.

(d) Girls in the cells are deprived of their regular clothing and forced to wear a "detention uniform", consisting of pajama-like garments.

(e) The cells have no windows to the outside, and are not properly or safely heated, ventilated or cooled.

(f) Girls in the cells are not allowed daily exercise or recreation.

(g) Girls in the cells are not allowed to participate in the educational or rehabilitative treatment programs of the institution. No substitute programs are provided for girls in solitary confinement.

(h) A few books and magazines are available for the girls in the cells, but there is no right to have these reading materials. They are provided at the discretion of the houseparent on duty.

(i) Girls in the cells do not have access to staff psychologists.

(j) Girls in the cells are not allowed to sleep during the day.

(k) Daily showers are not provided.

(l) Girls in the cells receive less food at mealtime than girls in the general institutional population. The food is often cold when served.

25. At Helena there are solitary confinement rooms in an area called Dodge House. The conditions existing within the solitary confinement rooms at Helena are as follows:

(a) The rooms are approximately five feet by eight feet in size.

(b) The windows in the rooms are heavily screen-meshed and opaque, permitting no view to the outside. None of the windows can be opened.

(c) The rooms are wholly stripped of furnishings. At night only a mattress is provided.

(d) The rooms are not properly or safely heated, ventilated or cooled.

(e) Boys in the rooms are not allowed daily exercise or recreation.

(f) Boys in the rooms are not allowed to participate in the educational or rehabilitative treatment programs of the institution. No substitute programs are provided for boys in solitary confinement.

(g) A few books and magazines are available for the boys in the rooms, but there is no right to have these reading materials. They are provided at the discretion of the houseparent on duty.

(h) Handcuffs, leather restraints and belly chains are used on boys in solitary confinement.

(i) Boys in solitary confinement are often hit, beaten and whipped by institutional personnel.

(j) Daily showers are not provided.

26. At Boley there are twenty-four solitary confinement rooms in one wing of the dormitory known as Grant Cottage. The conditions existing within the solitary confinement rooms at Boley are as follows:

(a) The rooms are approximately six feet by six feet in size. The floor is concrete.

(b) The rooms have screen-meshed windows with outside

louvre, permitting no view to the outside and very little sunlight.

(c) The rooms are stripped, containing only a blanket and a mattress at night.

(d) Twenty of the twenty-four rooms contain no toilets or other washroom facilities.

(e) The rooms are not properly or safely heated, ventilated or cooled.

(f) Boys in the rooms are deprived of their regular clothing and forced to wear pajama-like detention garments, without shoes.

(g) Boys in the rooms are not allowed daily exercise or recreation.

(h) Boys in the rooms are not allowed to participate in the educational or rehabilitative treatment programs of the institution. No substitute programs are provided for the boys in solitary confinement.

(i) A few books and magazines are available for the boys in the rooms, but there is no right to have these reading materials. They are provided at the discretion of the houseparent on duty.

(j) Daily showers are not provided.

LIMITED PRIVILEGE PROGRAM

27. At each institution there is an area designated as the limited privilege dormitory (LPD). LPD is basically a behavior modification program where a child is totally stripped of his or her institutional privileges and must earn his or her way back into the standard institutional program.

28. LPD is used primarily for children who have gone AWOL, children who have allegedly committed serious institutional rule infractions and children who have allegedly repeatedly violated institutional rules. The LPD program begins with placement in solitary confinement for an

indeterminate period of time.

29. Following the period of time in solitary confinement, the child is removed to a restricted area for a period of six weeks. Generally, during the first two to three weeks in LPD, the child is wholly restricted to the LPD area without access to the educational and rehabilitative treatment programs of the institution. Thereafter, the child is allowed to return to school, and certain privileges are gradually restored, dependent upon appropriate behavior. Finally, after six weeks, the child may be returned to the general institutional population with full restoration of privileges, provided the child has not been a "behavior problem" and demonstrates a "good attitude" in LPD. At Taft-South Campus, children in LPD are forced to wear pajamas twenty-four hours a day and are deprived of their shoes.

30. LPD can last indefinitely depending upon the child's behavior and attitude as determined by houseparents on duty and security personnel. While in LPD the child can be summarily placed in solitary confinement without any prior hearing. Transfer from the general population to LPD is accomplished without any meaningful hearing to determine whether or not there was a rule violation, whether or not the child charged committed the violation and whether or not placement in LPD is necessary or appropriate. The procedural deficiencies alleged in paragraph sixteen (16) of this complaint are re-alleged and expressly adopted and incorporated herein by reference.

ACCESS TO COUNSEL

31. On or about the 4th day of November, 1977, plaintiff Laura C. made a written request to speak with an attorney. This request was given by said plaintiff to her parole officer, who passed that request to plaintiff's counsel. All subsequent attempts by plaintiffs' counsel to contact said plaintiff were prevented by defendant Bill Harper and other

institutional personnel at Girl's Town until such time as said plaintiff requested by name to speak with plaintiffs' counsel.

32. On or about the 4th day of May, 1977, plaintiffs' counsel attempted to have a private conference with a client at Girl's Town. Plaintiffs' counsel was refused a private conference with his client by defendant Bill Harper, who insisted upon being personally present throughout the conference.

33. During the first two weeks of October, 1977 a client of plaintiffs' counsel who is not presently in the custody of DISRS was not allowed to contact plaintiffs' counsel by telephone (collect call) on three separate occasions. No explanation was given for these actions.

34. Children in solitary confinement are not permitted to contact their attorneys.

35. Upon information and belief, plaintiffs allege that the defendants are arbitrarily enforcing an unwritten policy of discouraging and preventing contact between children and attorneys who have in the past or may in the future represent said children. Defendants have further refused to allow private conferences between male attorneys and female children.

SCHOOL SUSPENSIONS

36. Children in the named institutions may be suspended from school for varying periods of time for school rule infractions or other misconduct. The school rules by which a student must abide are vague and overbroad, permitting suspension of students at the unbridled discretion of school officials.

37. Neither prior to nor following a school suspension is there any kind of fact-finding proceeding conducted by defendants to determine whether or not there was a rule infraction, whether or not the student charged committed

the violation, and whether or not school suspension is necessary or appropriate.

38. School suspension may result in severe disciplinary action, including solitary confinement. In addition, school suspension automatically results in the imposition of a 30-day campus restriction. Neither prior to nor following a school suspension is there any kind of a fact-finding proceeding conducted by defendants to determine whether or not disciplinary measures should be imposed, and if so, to what extent.

INSTITUTIONAL PROGRAMS, PERSONNEL AND CONDITIONS

39. DISRS Manual Section 1750 provides, "It is basic that an individual plan of care be devised and maintained for each child in the institution. Such plan should be designed to contribute to the rehabilitation of the individual." In practice, however, no meaningful, individual treatment plan is developed for each child in DISRS institutions. The basic plan for children, including plaintiffs, at all of the institutions is custodial maintenance. The smooth and efficient operation of the institution, and not the needs of the individual child, is of primary importance. Control of the general institutional population is the first duty of all personnel. All forms of outward expression by the children, such as anger, fear and excitement, are suppressed by the institutional personnel. "Disruption of the institutional programs" is an offense punishable by solitary confinement.

40. DISRS Manual Section 1753.1 provides in part, "Each child needs to be evaluated and his educational needs assessed. A program to assure the provision of these needs should be developed and maintained." In practice, however, the child's individual educational needs are rarely met. Many of the institutionalized children have educational deficiencies that range from illiteracy to severe learning disabilities. Some children are mentally retarded. Given the range and severity of these educational deficiencies,

the educational programs existing at the institutions are wholly inadequate to meet the special needs of each child. Teaching personnel at the institutions are not sufficiently qualified or trained to provide the special education and training needed by the children, including plaintiffs. All of the educational programs are understaffed.

41. Vocational training is for the most part limited to institutional maintenance work. The individual needs, preferences and aptitudes of each child are not considered in planning for vocational training. Each of the institutions impose their own very limited vocational training programs, rather than developing the assets and capabilities of each child.

42. Girl's Town, Boley and Helena are not co-educational institutions. The sexual isolation of children at these institutions severely impairs normal sexual and social development and behavior. All of the named institutions have a high rate of both consensual and non-consensual homosexuality. All hetero- and homosexual conduct is punished by solitary confinement.

43. All of the named institutions are located in remote rural areas of the State of Oklahoma. A majority of the children, including plaintiffs, are from urban areas of the State, and from financially poor families. The locations of these institutions effectively deprive many children, including plaintiffs, of meaningful contact with their families and communities. These children are further deprived of family counseling opportunities.

44. The location of the named institutions contribute to the inability and failure of defendants to attract adequately qualified and trained personnel in sufficient numbers to staff the institutions. These locations also contribute to the severe lack of adequate educational and vocational opportunities for the institutionalized children.

45. Defendants have failed to establish, develop, and provide foster homes, group homes and other community-based alternatives to the large, rural institutions. Many of the children in the named institutions, including plaintiffs, would benefit more from placement in a small residential facility in their own community than from placement in the named institutions. DISRS is authorized, pursuant to 10 O.S. §§601 et seq., to purchase space in private residential facilities, but rarely, if ever, exercises this option, especially with respect to children adjudicated delinquent. Although Whitaker, Taft-North Campus and Taft-South Campus are designated as "children's homes" primarily for children adjudicated in need of supervision and deprived, the lock-up facilities and the control-oriented atmosphere at these institutions make them secure, prison-like facilities.

46. Defendants have failed to provide institutional personnel at all levels who are adequately qualified, trained and supervised to effectively provide children, including plaintiffs, with appropriate care and rehabilitative treatment. All of the named institutions are understaffed.

47. The buildings that house children at Taft-North Campus are run-down, decrepit and dilapidated, and contain numerous safety and health hazards. Bay Hall, a dormitory for fourteen and fifteen year-old boys, is totally unfit for human habitation.

VI.

STATEMENT OF CLAIMS

FIRST CLAIM

48. Defendants' imposition of disciplinary measures upon plaintiffs, including placement in solitary confinement and LPD, without procedures comporting with due process of law violates rights and liberties secured by the Fourteenth Amendment to the United States Constitution.

SECOND CLAIM

49. The conditions existing in defendants' LPD programs and solitary confinement rooms and cells are so inhumane and deplorable as applied to children that they violate the right of plaintiffs to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the United States Constitution.

THIRD CLAIM

50. Defendants' practice of placing plaintiffs and their class in solitary confinement when they do not constitute a danger to themselves or others is punitive and anti-therapeutic, and violates the rights of plaintiffs to be free from cruel and unusual punishment and to rehabilitative treatment in the least restrictive environment as guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution, and state law.

FOURTH CLAIM

51. Defendants' practice of arbitrarily limiting plaintiffs' access to counsel and of arbitrarily interfering with the female plaintiffs' attorney-client privilege violates plaintiffs' rights to free speech and to counsel guaranteed by the First and Sixth Amendments to the United States Constitution.

FIFTH CLAIM

52. The failure of defendants to provide plaintiffs with adequate, meaningful, effective and individualized educational, vocational and therapeutic programs and resources in the least restrictive environment violates the right of plaintiffs to rehabilitative treatment and due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

SIXTH CLAIM

53. Defendants' practice of operating sexually segregated institutions violates the right of plaintiffs to

rehabilitative treatment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

SEVENTH CLAIM

54. The failure of defendants to provide personnel who are adequately staffed, qualified, trained and screened to deliver effective care and rehabilitative treatment to the plaintiffs violates the right of plaintiffs to rehabilitative treatment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

EIGHTH CLAIM

55. The conditions existing in the children's dormitories at Taft-North Campus are so inhumane and deplorable as applied to children that they violate the right of plaintiffs at Taft-North Campus to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the United States Constitution.

NINTH CLAIM

56. The suspension of plaintiffs and their class from school and the imposition of disciplinary measures thereon by defendants without procedures comporting with due process of law violates rights and liberties guaranteed by the Fourteenth Amendment to the United States Constitution.

VII.

RELIEF REQUESTED

WHEREFORE, plaintiffs, on their own behalf and on behalf of all other persons similarly situated, pray that this Court:

A. Assume jurisdiction of this cause and certify the same to proceed as a class action pursuant to Rule 23(c) (1), F.R.Civ.P.

B. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that the defendants' practices of limiting plaintiffs' access to counsel and of interfering with the female plaintiffs' attorney-client privilege

are violative of the right to free speech and the right to counsel guaranteed by the First and Sixth Amendments to the United States Constitution.

C. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that defendants' practice of imposing disciplinary sanctions upon plaintiffs, including placement in solitary confinement and LPD, without meaningful procedures comporting with due process of law is violative of the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

D. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that defendants' practice of imposing disciplinary sanctions upon plaintiffs, including placement in solitary confinement and LPD without maintaining specific rules and regulations defining conduct which may result in such disciplinary sanctions is violative of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

E. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that the conditions existing within the solitary confinement rooms and cells at Taft-South Campus, Taft-North Campus, Girl's Town, Boley and Helena are violative of plaintiffs right to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the United States Constitution.

F. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that the practice of placing children, including plaintiffs, in solitary confinement is violative of the rights to be free from cruel and unusual punishment and to rehabilitative treatment in the least restrictive environment guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution, and state law.

G. Issue a judgment pursuant to 28 U.S.C. §§2201 and

2202 and Rule 57, F.R.Civ.P., declaring that the failure of defendants to provide children in their institutions with adequate, meaningful and effective educational, vocational and therapeutic programs and resources is violative of the plaintiffs' right to rehabilitative treatment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

H. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that the failure of defendants to provide children in their custody, including plaintiffs, with adequate foster homes, group homes and other community-based alternatives is violative of the plaintiffs' right to rehabilitative treatment in the least restrictive environment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

I. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that defendants' practice of operating sexually segregated juvenile institutions is violative of plaintiffs' right to rehabilitative treatment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

J. Issue a judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57, F.R.Civ.P., declaring that the failure of defendants to provide plaintiffs with adequately staffed, qualified, trained and screened personnel at the named institutions is violative of plaintiffs' right to rehabilitative treatment as guaranteed by the Fourteenth Amendment to the United States Constitution, and state law.

K. Grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from refusing to allow private conferences between the female plaintiffs and their counsel.

L. Grant preliminary and permanent injunctive relief

enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from limiting or restricting in any manner whatsoever access to counsel for plaintiffs and the class members.

M. Grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from imposing solitary confinement upon plaintiffs or any member of the class.

N. As an alternative to the relief requested in part M, grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from imposing solitary confinement upon plaintiffs or any member of the class, unless it is immediately necessary to prevent injury to the child or other persons, but not to exceed three (3) hours, and not without:

(a) providing clean, comfortable and reasonably spacious facilities with adequate heating, ventilation and sunlight;

(b) providing an operative toilet and wash basin;

(c) an administrative review of the decision to place in solitary confinement by the Superintendent (or his designate in his absence) as soon as is practicable, but in no event more than one (1) hour after placement in solitary confinement;

(d) full time monitoring and supervision by a social worker or psychologist who is adequately trained to deal appropriately with violent or aggressive behavior in children; and,

(e) providing reading materials suitable to each child, considering the child's cultural and educational

background.

O. As an alternative to the relief requested in part N, grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from imposing solitary confinement upon plaintiffs or any member of the class without:

(a) providing a meaningful disciplinary hearing with written notice of charges, confrontation and cross-examination of witnesses, right to call witnesses and present evidence in defense, right to counsel or counsel substitute, written findings of fact and reasons for action taken and right to administrative review by the superintendent;

(b) providing clean, comfortable and reasonably spacious facilities with adequate heating, ventilation and sunlight;

(c) providing an operative toilet and wash basin;

(d) providing daily indoor and outdoor exercise and recreation;

(e) providing educational, vocational and treatment facilities and services;

(f) providing adequate clothing appropriate to the season and weather;

(g) providing reading materials suitable to each child, considering each child's cultural and educational background; and

(h) providing daily showers for each child.

P. Grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from housing children in Bay Hall at Taft-North Campus.

Q. Grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their

agents, employees, successors in office and other persons acting in concert with them from interfering with, restricting or prohibiting plaintiffs' counsel, or any designated representatives of such counsel, or any expert witness potentially available in this case, from having access to plaintiffs and the class members, and from inspecting and photographing any areas of Taft-South Campus and Taft-North Campus, Whitaker, Girl's Town, Boley and Helena.

R. Grant preliminary and permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from questioning or discussing with plaintiffs or any class member any matter pertaining to this action, without the prior approval of the child and plaintiffs' counsel.

S. Institute appropriate safeguards necessary to prevent threats, punishment, harassment or other retaliation upon plaintiffs and members of the class for investigating, initiating and prosecuting this action.

T. Grant permanent injunctive relief enjoining, restraining and prohibiting defendants, their agents, employees, successors in office and other persons acting in concert with them from continuing to operate the state training schools for boys at Helena and Boley, the state training school for girls at Tecumseh (Girl's Town) and the state children's home at Taft, both North and South Campus.

U. Require defendants to submit to the Court within thirty (30) days after judgment is entered herein a plan outlining the steps to be taken by defendants to comply with said judgment.

V. Appoint a master and an advisory group to oversee and monitor ongoing implementation of the terms and conditions of any order entered herein, and to report to the Court concerning defendants' compliance with such terms

and conditions.

W. Retain jurisdiction of this action.

X. Award plaintiffs their costs and disbursements herein, including attorneys fees pursuant to 42 U.S.C. §1988 (Supp. 1977).

Y. Grant plaintiffs such other additional and alternative relief as may appear just and equitable to the Court.

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