



JI-WA-0002-0005

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 CLERK U.S. DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON AT TACOMA  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES HORTON, JAMES BARNHART, )  
JEROME PAYTON, J.B., through his )  
next friend, LORRAINE WEST, and )  
K.M., through his mother DEBBIE )  
MOORE, on behalf of themselves )  
and all others similarly situated, )

Plaintiffs, )

vs. )

BOB WILLIAMS, in his official )  
capacity as Superintendent of )  
Green Hill School; JEAN SOLIZ, )  
in her official capacity as )  
Secretary of the Department of )  
Social and Health Services; and )  
SID SIDOROWICZ, in his official )  
capacity as Assistant Secretary )  
of the Juvenile Rehabilitation )  
Administration; and the Chehalis )  
School District, )

Defendants. )

CLASS ACTION

NO. C94-5428 RJB

STATE DEFENDANTS' ANSWER  
TO FIRST AMENDED COMPLAINT  
FOR INJUNCTIVE AND  
DECLARATORY RELIEF

COMES NOW Defendants Bob Williams, Jean Soliz, and Sid  
Sidorowicz (state defendants), through their undersigned counsel,  
and in answer to the First Amended Complaint For Injunctive and  
Declaratory Relief, admit, deny, and allege as follows:

Answering paragraph 1, state defendants admit that Green Hill  
School (Green Hill) is an institution for juvenile offenders in

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1 Chehalis, Washington, and that plaintiffs seek declaratory and  
2 injunctive relief. State defendants deny remainder of said  
3 paragraph.

4 Answering paragraph 2, state defendants deny the same.

5 Answering paragraph 3, state defendants admit that J.B. and  
6 K.M. are under age 18, and that plaintiffs Horton, Barnhart, and  
7 Payton are over age 18. State defendants deny remainder of said  
8 paragraph for lack of knowledge.

9 Answering paragraph 4, state defendants admit that plaintiffs  
10 are residents of Washington. State defendants deny for lack of  
11 knowledge that plaintiffs' next friends are residents of  
12 Washington. State defendants deny remainder of said paragraph.

13 Answering paragraph 5, state defendants admit that plaintiffs  
14 Horton and K.M. were sprayed with aerosol oleoresin capsicum (OC)  
15 by staff at Green Hill, and that they have been handcuffed.  
16 State defendants deny remainder of said paragraph.

17 Answering paragraphs 6 and 7, state defendants deny the same.

18 Answering paragraphs 8 through 12, state defendants admit the  
19 same.

20 Answering paragraphs 13 through 15, state defendants deny the  
21 same.

22 Answering paragraph 16, state defendants admit that Green  
23 Hill is located in Chehalis, Washington, and that there are  
24 approximately 26 buildings, including those listed in said  
25 paragraph. Defendants deny remainder of said paragraph.  
26

1           Answering paragraph 17, state defendants admit that what is  
2 now Green Hill opened in 1891 as the Washington State Reform  
3 School. State defendants deny remainder of said paragraph.

4           Answering paragraph 18 and 19, state defendants deny the  
5 same.

6           Answering paragraph 20, state defendants deny for lack of  
7 knowledge that damage would incur to Green Hill buildings in event  
8 of a seismic activity. State defendants deny remainder of said  
9 paragraph.

10          Answering paragraphs 21 and 22, state defendants deny the  
11 same.

12          Answering paragraph 23, state defendants admit that there are  
13 no fire sprinkler systems at Green Hill. State defendants deny  
14 remainder of said paragraph.

15          Answering paragraph 24, state defendants admit that they  
16 authorize Green Hill staff to use OC, and that one or more of the  
17 alleged effects temporarily may occur.

18          Answering paragraph 25, state defendants deny the same.

19          Answering paragraph 26, state defendants deny that any of the  
20 named plaintiffs were sprayed with OC in the manner alleged in  
21 said paragraph.

22          Answering paragraph 27, state defendants admit Green Hill  
23 maintains supplies of 5% and 10% OC, and that there are no written  
24 guidelines on what OC concentration to use. State defendants deny  
25 remainder of said paragraph.

26          Answering paragraph 28, state defendants deny the same.

1           Answering paragraph 29, state defendants admit the same.

2           Answering paragraph 30, state defendants deny that any of the  
3 named defendants have been on a spray program. State defendants  
4 admit that a very limited number of residents are on spray  
5 programs, in which use of OC is pre-authorized by state defendant  
6 Williams in the event of certain prescribed conduct by the  
7 resident when such conduct jeopardizes institutional security.

8           Answering paragraph 31, state defendants admit that a  
9 limited number of residents have had their names placed on a OC  
10 canister.

11           Answering paragraph 32, state defendants admit that Green  
12 Hill medical, psychological, or mental health staff is not  
13 consulted just prior to OC spraying of a resident. State  
14 defendants allege that such staff was consulted prior to  
15 implementation of the OC policy.

16           Answering paragraph 33 and 34, state defendants deny the  
17 same.

18           Answering paragraph 35, state defendants deny the same.

19           Answering paragraph 36, state defendants deny the same.

20           Answering paragraph 37, state defendants authorize use of  
21 force when handcuffing and shackling a resisting resident if  
22 necessary for institutional security. State defendants allege  
23 that they are not aware of an instance where this has been  
24 necessary.

25           Answering paragraph 38, state defendants deny the same.  
26

1           Answering paragraph 39, state defendants deny the same.  
2 State alleges that what plaintiffs term "disciplinary cottages",  
3 state defendants term "intensive management units" (IMUs).

4           Answering paragraphs 40 through 42, state defendants deny the  
5 same.

6           Answering paragraph 43, state defendants admit that in a  
7 limited number of cases residents are retained temporarily in IMU  
8 because no outside beds are available. State defendants deny  
9 remainder of said paragraph.

10          Answering paragraphs 44 to 48, state defendants deny for lack  
11 of knowledge. State defendants allege that education programs are  
12 the legal responsibility of defendant Chehalis School District.

13          Answering paragraphs 49 to 56, state defendants deny the  
14 same.

15          Answering section VII, state defendants deny each and every  
16 allegation in the first, second, third, and fourth claim

17          Answering section VIII, state defendants deny the same.

18          Answering section IX, state defendants deny the same.

19          Answering paragraph VII, state defendants deny the same.

20          State defendants further deny each and every allegation  
21 contained in Plaintiffs' First Amended Complain For Declaratory  
22 and Injunctive Relief not otherwise admitted or denied.

23          BY WAY OF FURTHER ANSWER AND AFFIRMATIVE DEFENSES, state  
24 defendants affirmatively allege:

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1           1. Plaintiffs fail to allege facts that rise to the level of  
2 a civil rights violation, and therefore fail to state a claim upon  
3 which relief may be granted;

4           2. Plaintiffs fail to establish federal subject matter  
5 jurisdiction, and therefore their claims should be dismissed for  
6 lack of subject matter jurisdiction;

7           3. Plaintiff failed to exhaust administrative remedies or  
8 remedies in other forums, and therefore jurisdiction does not lie;

9           4. The Eleventh Amendment precludes jurisdiction over  
10 pendant state claims;

11           5. State defendants are not liable for acts of their  
12 superiors or subordinates in which state defendants did not  
13 personally participate;

14           6. Any injury suffered by the plaintiffs was the result of  
15 reasonable conduct by state defendants and was justified under the  
16 circumstances;

17           7. Any injury suffered by plaintiffs was caused or provoked  
18 by the conduct of the plaintiffs;

19           8. Conduct of the state defendants alleged in the complaint  
20 was grounded in good faith and were discretionary acts, and  
21 therefore state defendants are entitled to qualified immunity.

22           WHEREFORE, having fully answered the First Amended Complaint  
23 and having stated affirmative defenses, state defendants pray for  
24 judgment dismissing the Complaint and action with prejudice,  
25 directing plaintiffs take nothing thereby, and awarding state  
26

1 defendants costs and reasonable attorneys' fees incurred in  
2 defending against this action.

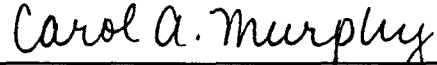
3 DATED this 6 day of September, 1994.

4 CHRISTINE O. GREGOIRE  
5 Attorney General

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RICHARD A. McCARTAN, WSBA #8323  
8 Assistant Attorney General

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CAROL A. MURPHY, WSBA #21244  
11 Assistant Attorney General  
12 Attorneys for Defendants  
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