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,

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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.

CASE NO. C94-5428 RJB

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR PRELIMINARY INJUNCTION RE PEPPER SPRAY

THIS MATTER comes before the court on plaintiffs' Motion for Preliminary Injunction Re Pepper Spray. The court has considered the records and files herein and all documents filed in support of and in opposition to the motion. On 5 December 1994 the court heard the argument of counsel and supplemented the record by the addition of Exhibit 1. On 6 December 1994 the court orally ruled and said oral ruling is by this reference made a part of this order. The court being full advised it is now ORDERED as follows:

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR PRELIMINARY INJUNCTION RE PEPPER SPRAY - 1

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The Motion for Preliminary Injection Re Pepper Spray is GRANTED in part and DENIED in part as follows: Pepper spray may only be used on students at Green Hill School in situations which are reasonably likely to result in injury to persons or injury to a substantial amount of valuable property. Implicit in this ruling is the following: 1) there must be a credible threat of a specific injury; 2) the only legitimate intended result of a pepper spray use is the incapacitation of a dangerous person and not the infliction of pain; 3) that pepper spray shall not be used for punishment and shall be used only in furtherance of legitimate prison interest which, in this situation, means the incapacitation of a dangerous person; 4) pepper spray should only be used when absolutely necessary, which means that it should be used only if there is a threat of equal or greater harm to others or to a substantial amount of valuable property than the pain and danger of harm that the use of pepper spray presents. The defendants are hereby enjoined from any use of pepper spray on students at Green Hill School except as may be consistent with this order.

This order shall remain in effect until further order of the court or final judgment of this case.

The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro* se at said party's last known address.

DATED this 6th day of December , 1994.

Robert J./Bryan

United States District Judge