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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE DISTRICT OF ARIZONA

10 ANTHONY C., a minor, by and through
his Next Friend, GLORIA C.;
11 JOHN P., by and through his Next Friend,
WILLIAM P.;
12 MARK H., a minor, by and through his
Next Friend, ROSE ANN P.;
13 JOY S., by and through her Next Friend,
WILLIAM E. MORRIS;
14 MARIA R., by and through her Next
Friend, WILLIAM E. MORRIS, on behalf of
15 themselves and all others similarly
situated,

16 Plaintiffs,

17 vs.

18 PIMA COUNTY, a political subdivision;
19 GILBERT VELIZ, Judge of the Superior
Court of Pima County, Juvenile Division,
20 in his official capacity; RICHARD
WILSON, individually and in his official
21 capacity as Director of Court Services
of the Pima County Juvenile Court Center;
22 ROBERT TUCKER, individually and in his
official capacity as Deputy Director of
23 Detention at the Pima County Juvenile
Detention Center; KATIE DUSENBERRY,
24 CONRAD JOYNER, SAM LENA, E. S. (BUD)
WALKER and DAVID YETMAN, individually
25 and in their official capacities as
members of the Pima County Board of
26 Supervisors,

Defendants.

NO.
CIV-82-501-TUC-ACM

AMENDED COMPLAINT

(For Declaratory
and Equitable
Relief, and Damages)

(CLASS ACTION)

1 I. STATEMENT OF THE CASE

2 1. This is a civil rights class action challenging:
3 (1) the education, treatment, and conditions of confinement at
4 the Pima County Juvenile Detention Center ("Detention Center")
5 2225 E. Ajo Way, Tucson, Arizona; (2) the failure of the
6 defendants to provide detention hearings within twenty-four (24)
7 hours to juveniles detained at the Pima County Juvenile
8 Detention Center; and (3) the detention of "status offenders"
9 (juveniles who are charged with offenses which would not be
10 crimes if committed by adults) for longer than twenty-four (24)
11 hours at the Pima County Juvenile Detention Center.

12 2. Defendants, acting under color of state law, have
13 caused plaintiffs to suffer and be subjected to cruel and
14 unusual punishment, inhumane treatment, denial of due process
15 and equal protection of law, as well as the deprivation of
16 numerous other constitutional and statutory rights. Addition-
17 ally, defendants have failed to provide a free, appropriate
18 public education to juveniles detained at the Pima County
19 Juvenile Detention Center who are handicapped and entitled to
20 receive such education under Public Law 94-142 (Education For
21 All Handicapped Children Act) (20 U.S.C. §1401, et seq.) and the
22 Rehabilitation Act of 1973 (29 U.S.C. §794).
23

24 II. JURISDICTION AND RELATED MATTERS

25 3. This Court has jurisdiction of this action under 28
26 U.S.C. §1343(3), this being an action to redress the deprivation,

1 under color of state law, of rights secured by the United States
2 Constitution and federal laws providing for individual rights.
3 This Court also has jurisdiction of this action under 28 U.S.C.
4 §1343(4), this being an action to recover damages and to secure
5 declaratory, injunctive and other equitable relief under acts of
6 Congress providing for the protection of civil rights.

7 4. This Court also has jurisdiction of this action under
8 28 U.S.C. §1331(a), this being an action wherein the matter in
9 controversy arises under the Fourteenth Amendment to the United
10 States Constitution and under the laws of the United States.

11 5. This Court is authorized, pursuant to 28 U.S.C. §§2201
12 and 2202 and Rules 57 and 65 of the Federal Rules of Civil
13 Procedure, to order the equitable relief requested herein, this
14 being an action for a declaration of the rights of plaintiffs,
15 and for injunctive and other equitable relief based upon that
16 declaratory judgment, under 42 U.S.C. §§1983 and 1988, and other
17 provisions of federal law.

18 Plaintiffs

19 6. Plaintiff ANTHONY C. is a juvenile, 17 years of age,
20 and a citizen of the United States. At all times during the
21 events described herein, plaintiff has resided in Pima County
22 with his parents.

23 7. Plaintiff MARK H. is a juvenile, 17 years of age and a
24 citizen of the United States. At all times during the events
25 described herein, plaintiff has resided in Pima County.

26 8. Plaintiff JOHN P. is a juvenile, 15 years of age, and

1 a citizen of the United States. At all times during the events
2 described herein, plaintiff has resided in Pima County.

3 9. Plaintiff JOY S. is a juvenile, 17 years of age, and a
4 citizen of the United States. At all times during the events
5 described herein, plaintiff has resided in Pima County.

6 10. Plaintiff MARIA R. is a juvenile, 16 years of age, and
7 a citizen of the United States. At all times during the events
8 described herein, plaintiff has resided in Pima County with her
9 parents.

10 Defendants

11 11. Defendant PIMA COUNTY is a political subdivision of
12 the State of Arizona. As a local unit of government, it has
13 implemented, executed, and adopted the policies, practices, acts
14 and omissions complained of herein through formal adoption or
15 pursuant to government custom.

16 12. Defendant GILBERT VELIZ is a Judge of the Superior
17 Court of Pima County, Juvenile Division (Division Four). In
18 this capacity, defendant VELIZ is responsible, pursuant to
19 A.R.S. §8-203(a) and (b), for the detention, custody, care,
20 placement and release of all persons brought before the Juvenile
21 Court. Defendant VELIZ is also responsible for appointing a
22 Director of Court Services for the Juvenile Court, who in turn
23 recommends appointment of detention and receiving personnel.
24 Defendant VELIZ is sued in his official capacity.

25 13. Defendant RICHARD WILSON is a Director of Court
26 Services of the Pima County Juvenile Court Center. As such,

1 this defendant is responsible for the safety and welfare of all
2 persons confined in the Detention Center. Defendant WILSON is
3 sued individually and in his official capacity.

4 14. Defendant ROBERT TUCKER is the Deputy Director of
5 Detention at the Pima County Juvenile Detention Center. As
6 such, defendant is responsible for the safety and welfare of all
7 persons confined at the Pima County Juvenile Detention Center.
8 Defendant TUCKER is sued individually and in his official
9 capacity.

10 15. Defendants KATIE DUSENBERRY, CONRAD JOYNER, SAM LENA,
11 E. S. (BUD) WALKER, and DAVID YETMAN are members of the Pima
12 County Board of Supervisors. As such, these defendants exercise
13 their powers as a body politic and corporate and are responsible
14 for directing, controlling, and maintaining, as well as making
15 appropriations for, the Pima County Juvenile Detention Center.
16 Said defendants are sued individually and in their official
17 capacities.

18 19 III. CLASS ACTION

20 16. Plaintiffs bring this action on behalf of themselves
21 and all others similarly situated, pursuant to Rule 23(a),
22 (b)(1) and (b)(2) of the Federal Rules of Civil Procedure. The
23 class consists of all juveniles who are currently, have been
24 during the year prior to the filing of this Complaint, and in
25 the future will be confined in the Pima County Juvenile
26 Detention Center, 2225 East Ajo Way, Tucson, Arizona.

1 17. The members of the class, consisting of several
2 hundred persons, are so numerous that joinder of all members is
3 impracticable.

4 18. There are questions of law and fact common to members
5 of the plaintiff class, and the claims of the named plaintiffs
6 are typical of the claims of the members of the plaintiff class.

7 19. Plaintiffs' attorneys have substantial experience in
8 this type of litigation, and the named plaintiffs and their
9 counsel will fairly and adequately protect the interests of the
10 members of the class.

11 20. Since members of the plaintiff class are incarcerated
12 in the Pima County Juvenile Detention Center for several days at
13 a time, the injuries suffered by plaintiffs as a result of the
14 policies and practices of defendants complained of herein are
15 capable of repetition, yet may evade review, thereby making
16 class relief appropriate.

17 21. By their policies and practices, the defendants have
18 acted and continue to act on grounds and in a manner generally
19 applicable to the class, thereby making appropriate final
20 injunctive relief or corresponding declaratory relief with
21 respect to the class as a whole.

22 22. Questions of law or fact common to the class
23 predominate over any questions affecting only individual
24 members, and a class action is superior to other methods
25 available for the fair and efficient adjudication of the
26 controversy.

1 IV. FACTUAL ALLEGATIONS

2 A. Plaintiffs.

3 23. On Friday evening, October 9, 1981, plaintiff ANTHONY
4 C., age 17, was arrested by City of Tucson police officers and
5 detained in the Pima County Juvenile Detention Center
6 ("Detention Center") in Tucson, Arizona until October 13, 1981.

7 24. Upon being detained, ANTHONY C. informed defendants
8 that he was asthmatic and would need to see a doctor. However,
9 despite several requests by ANTHONY C. and his parents, ANTHONY
10 C. was never examined or attended by a doctor.

11 25. Despite repeated requests by plaintiff ANTHONY C.'s
12 parents, the defendants failed and refused to release ANTHONY C.
13 or to provide him a detention hearing prior to Tuesday
14 afternoon, October 13, 1981.

15 26. During his confinement, ANTHONY C. was housed in a
16 cell with up to four other juveniles.

17 27. Although ANTHONY C. did not cause any disturbances,
18 violate any rules of the Detention Center or commit any
19 disciplinary infractions during this detention, defendants held
20 him in the secure confinement unit of the Detention Center. He
21 was not allowed out of his cell during his confinement, except
22 for approximately a 30-minute period each day, in which he was
23 only allowed in the hallway.

24 28. Defendants refused to allow ANTHONY C.'s parents to
25 visit him during his detention except for one Sunday, October
26 11, 1981.

1 29. On Tuesday, October 13, 1981, ANTHONY C.'s detention
2 hearing was held, resulting in his release to the custody of his
3 parents. On November 19, 1981, at his adjudication hearing,
4 ANTHONY C. was found not guilty.

5 30. Plaintiff MARK H. is a juvenile, 17 years of age, and
6 a citizen of the United States. MARK H. has been detained in
7 the Detention Center three times between October, 1981 and May,
8 1982. On at least two of these occasions, MARK H. was denied a
9 prompt detention hearing within 24 hours of his arrest.

10 31. In or around October, 1981, defendants strapped MARK
11 H. with handcuffs and leather straps to a steel bunk-bed for a
12 period of time lasting more than 24 hours.

13 32. During the three periods of his confinement at the
14 Detention Center between October, 1981 and May, 1981, MARK H.
15 was subjected to the general conditions of confinement at the
16 Detention Center set forth herein.

17 33. Plaintiff JOHN P. is a juvenile, 15 years of age, and
18 a citizen of the United States.

19 34. Following plaintiff JOHN P.'s arrest and confinement
20 early Saturday morning, July 17, 1982, the defendants failed to
21 release JOHN P. or to provide him a detention hearing prior to
22 Monday afternoon, July 19, 1982.

23 35. Despite plaintiff JOHN P.'s request on Saturday, July
24 17, 1982, to see a physician regarding extensive cuts and
25 bruises, he did not receive such access to a physician until
26 Monday, July 19, 1982.

1 36. Despite plaintiff JOHN P.'s requests to detention
2 center staff to see a physician regarding a sore throat,
3 plaintiff JOHN P. did not receive such access. He was able to
4 see the physician only after personally approaching him and
5 explaining the symptoms.

6 37. During the period of his confinement at the Detention
7 Center, plaintiff JOHN P. was subject to the general conditions
8 of confinement at the Detention Center set forth herein.

9 38. The defendants have denied plaintiff JOHN P. access to
10 reasonable attorney visits from his undersigned attorneys.

11 39. Plaintiff JOY S. is a juvenile, 17 years of age, and
12 a citizen of the United States. Plaintiff JOY S. is presently
13 confined against her will in the Detention Center.

14 40. Plaintiff JOY S. has been confined in the Detention
15 Center on three occasions since July 1, 1982.

16 41. Plaintiff JOY S., while charged only with status
17 offenses, has been confined in the Detention Center for periods
18 substantially in excess of 24 hours.

19 42. During her periods of confinement at the Detention
20 Center, plaintiff JOY S. was and is subjected to the general
21 conditions of confinement at the Detention Center set forth
22 herein.

23 43. The defendants have denied plaintiff JOY S. access to
24 reasonable attorney visits from her undersigned attorneys.

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1 44. In March of 1982, plaintiff MARIA R., age 16, was
2 arrested by City of Tucson police officers as a status offender
3 and taken to the Detention Center.

4 45. After MARIA R. entered the Detention Center she was
5 denied medical and psychological care for two weeks.

6 46. The Detention Center psychologist, Doris Ford, saw
7 Plaintiff MARIA R. only two times during the 30 days she stayed
8 at the Detention Center. At one of these psychological
9 examinations, Ms. Ford found MARIA R. to be pre-psychotic and
10 schizophrenic as a result of paint sniffing.

11 47. Defendants stripped searched MARIA R. when she went
12 through intake and every other day of her confinement. These
13 strip searches were routinely conducted in the restroom in front
14 of other young women in the Detention Center.

15 48. Defendants' overly restrictive visitation and
16 telephone policies resulted in MARIA R. being denied reasonable
17 visits and telephone calls to relatives.

18 B. Conditions in the Detention Center

19 49. The Detention Center, built in 1967, is a secure
20 facility comprising part of the Juvenile Court Center, 2225 East
21 Ajo Way, Tucson, Arizona.

22 50. The Detention Center houses and confines three
23 categories of juveniles: 1) juveniles awaiting adjudication on
24 delinquency charges; 2) juveniles awaiting placement following
25 an adjudication of delinquency; 3) juveniles arrested for
26 offenses which would not be crimes if committed by adults

1 (status offenders),

2 C. Living Units

3 51. The Detention Center contains two main living units
4 with 18 beds each, and two secure confinement units with 6 cells
5 each. The secure confinement units are in the same area as the
6 main living units. All units house boys and girls separately.

7 52. Defendants routinely confine plaintiffs in secure
8 confinement cells until a detention hearing is held. After a
9 detention hearing is held, defendants routinely hold juveniles
10 in the secure confinement cells for several days before moving
11 them into the living unit.

12 53. The secure confinement cells measure approximately
13 7-1/2 feet by 11 feet, and contain one set of metal bunk-beds,
14 one toilet, and one sink, but no shower. Each cell was designed
15 to confine a maximum of two juveniles.

16 54. The secure confinement cells are constructed entirely
17 of concrete except for one small window which admits very little
18 natural light. The doors are steel except for one small window
19 which looks out into an indoor hallway.

20 55. During October and November of 1981, defendants
21 routinely confine as many as four persons in each of the secure
22 confinement cells. When more than two children are confined in
23 a secure confinement cell, the defendants provide a mattress on
24 the floor for each additional individual. Because of the small
25 size of the cell, children often must sleep with their feet and
26 legs under the bottom bunk-bed.

1 56. Juveniles confined in the secure confinement unit are
2 required to eat all their meals in their cells.

3 57. Defendants fail to provide juveniles in the secure
4 confinement units with any educational program.

5 58. Plaintiffs confined in secure confinement cells are
6 often not permitted to attend regular Sunday religious services
7 conducted at the Detention Center.

8 D. Discipline

9 59. Disciplinary action is accomplished at the Detention
10 Center by a system of "movements." Under this system of
11 movements, defendants transfer children to the secure
12 confinement cell area from the main living unit for minor
13 disciplinary infractions. Defendants do not afford hearings
14 prior to their transfer to the secure confinement unit pursuant
15 to a disciplinary movement.

16 60. If a juvenile receives a total of four movements in a
17 seven-day period, he/she is placed on discipline status. A
18 minimum of 24 or a maximum of 48 hours must be spent in
19 discipline status. In discipline status, the child remains in a
20 locked secure confinement cell and: 1) is only allowed out of
21 the cell to shower or to clean the cells; 2) may only visit with
22 court employees in the locked secure confinement cell; 3) may
23 not have family or other visitors.

24 61. A child may only move him or herself to the living
25 unit area by: 1) waiting a predetermined period of time (often
26 48 hours or more) with good behavior; and 2) waiting for an open

1 space to become available in the living unit.

2 E. Restraints

3 62. The defendants routinely use leather restraints and
4 handcuffs to punish juveniles for yelling, knocking on walls, or
5 refusing to comply with directions. Defendants use both types
6 of restraints to bind children's hands and feet and to secure
7 them to the posts of the beds. Defendants do not give juveniles
8 a hearing before punishing them.

9 F. Health, Safety and Personal Hygiene

10 63. Defendants do not adequately provide juveniles with
11 clean mattresses, mattress cover sheets, laundered blankets or
12 sheets. Defendants fail to provide juveniles with laundered
13 clothes, routinely allowing them one change of clean clothing,
14 including underwear, each week. This practice contributes to
15 overall unsanitary conditions.

16 64. Defendants fail to provide juveniles with clothes to
17 wear while their dirty clothes are being washed. These children
18 must, therefore, remain naked in their cells, with only a sheet
19 for cover, while their clothes are laundered.

20 65. Defendants fail to provide juveniles with adequate
21 time in the shower each day.

22 66. Defendants fail to provide adequate ventilation in the
23 Detention Center. Children confined therein do not have access
24 to fresh air, and temperatures in the Detention Center are
25 frequently extremely hot or cold. Poor ventilation and
26 temperature control contribute to the deterioration of the

1 juveniles' physical and psychological health.

2 67. Defendants routinely operate the Detention Center with
3 insufficient staff to ensure the safety of juveniles in the
4 event of a fire or other emergency.

5 G. Education and Recreation

6 68. Defendants fail to provide classroom materials or
7 instruction specifically designed to address the needs of those
8 juveniles identified as special education students pursuant to
9 Public Law 94-142 (the Education of All Handicapped Children
10 Act), and §504 of the Rehabilitation Act of 1973, while in
11 custody at the Detention Center.

12 69. Defendants do provide some instruction to juveniles in
13 the main living unit. However, this instruction is extremely
14 limited, and if a child misses one instructional session,
15 defendants prohibit that child from attending any future
16 classes. This is an overly restrictive and punitive denial of
17 education.

18 70. Defendants fail to provide juveniles with any outdoor
19 recreation during the entire period of their confinement. Also
20 defendants fail to provide plaintiffs with adequate large muscle
21 exercise during their confinement.

22 71. The defendants fail to provide a program of indoor
23 recreation which includes sedentary games, books, periodicals
24 and reading materials appropriate to the age, heritage and
25 educational backgrounds of plaintiffs.

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1 H. Medical Care and Mental Health Treatment

2 72. Defendants fail to screen juveniles for medical or
3 mental problems after they are taken into custody. Defendants
4 fail to provide adequate medical or mental health services to
5 juveniles during their confinement in the Detention Center.

6 73. Defendants fail to provide adequate treatment for
7 children suffering from severe emotional disturbances or other
8 psychological impairments that substantially interfere with
9 daily motor activities and require immediate treatment to
10 prevent further deterioration while they remain in custody.

11 I. Visitation, Telephone, Mail Censorship and
12 Searches

13 74. Defendants fail to provide juveniles with a private
14 room or private area in which to visit their attorneys.

15 75. Defendants selectively enforce overly restrictive
16 attorney visitation rules, having limited attorney visitors to
17 only those attorneys representing detainees as attorneys of
18 record in delinquency matters.

19 78. Defendants fail to provide juveniles access to a
20 telephone for either incoming or outgoing calls. Similarly,
21 defendants fail to provide juveniles with postage stamps for
22 outgoing mail.

23 79. Defendants routinely subject juveniles to strip
24 searches which are often conducted in full view of other
25 children.

26 80. Adult detainees at the Pima County Adult Detention

1 Detention Center receive postage stamps, substantial use of
2 telephones, outdoor recreation, clean clothes, and access to
3 visitors, as well as medical care far superior to that allowed
4 children charged with lesser offenses but who are confined in
5 the Juvenile Detention Center for comparable periods of time.

6 81. The defendant Supervisors are equally responsible for
7 the overseeing and funding operation of those adult and juvenile
8 detention centers.

9 J. Twenty-four Hour Detention Hearings

10 82. Rule 3(d) of the Arizona Rules of Procedure for the
11 Juvenile Court provides:

12 No child shall be held in detention for more than 24
13 hours, excluding Saturdays, Sundays and holidays, unless a
14 petition alleging his delinquent conduct has been filed;
15 and no child shall be held longer than 24 hours, excluding
16 Saturdays, Sundays and holidays, after the filing of said
17 petition unless so ordered by the court after hearing.

18 83. Pursuant to Rule 3(d), defendants fail to hold
19 detention hearings on weekends and holidays. If a juvenile is
20 arrested and subsequently detained at the Detention Center after
21 3:00 p.m. on Friday, defendants fail to provide a hearing for
22 him/her until Monday at 3:00 p.m. If Monday is a holiday, the
23 defendants fail to provide a detention hearing for that
24 juveniles until Tuesday at 3:00 p.m.

25 84. Pursuant to Rule 3(d), as applied by defendants, a
26 juvenile detained on Friday, Saturday, Sunday or a holiday may
not appear before a judge or referee for a probable cause
determination or for a determination of release for up to 100

1 hours.

2 85. The detention or probation officers at the Detention
3 Center are given the discretion by the defendants to release
4 juveniles arrested on the weekend or holidays for certain
5 specifically delineated, minor offenses. If the arrest is not
6 for one of these specified offenses, the juvenile just remain in
7 detention until the detention hearing.

8 86. The failure to provide detention hearings for
9 juveniles on weekends and holidays results in overcrowded and
10 inhumane conditions of confinement for children in the Detention
11 Center because weekend and holidays are typically the periods of
12 peak arrest activity in juvenile cases.

13 87. Crowding in the detention center increases the
14 potential for violence among detainees by increasing the level
15 of frustration, anxiety and tension they already experience
16 while in confinement.

17 88. Defendants fail to provide a sufficient system for
18 classifying inmates. As a result, serious offenders are often
19 kept in the secure confinement unit with the juveniles who have
20 never been detained before, or are only being detained for
21 traffic offenses. This failure by defendants can and does lead
22 to violence and physical abuse in the Detention Center.

23 89. Pursuant to Rule 4.1(c) of the Arizona Rules of
24 Criminal Procedure, an adult detainee must be taken before a
25 magistrate for an initial appearance within 24 hours after
26 his/her arrest. If an adult arrestee is not brought before a

1 magistrate within that time, he/she must be immediately
2 released.

3 90. Pursuant to Rule 4.1(c), the defendants PIMA COUNTY,
4 KATIE DUSENBERRY, CONRAD JOYNER, SAM LENA, E. S. (BUD) WALKER
5 and DAVID YETMAN must provide initial appearances within 24
6 hours for adults arrested and detained in Pima County.

7 K. Secure Detention of Status Offenders

8 91. The State of Arizona receives federal funds from the
9 Office of Juvenile Justice and Delinquency Prevention (OJJDP)
10 which is part of the United States Department of Justice. Such
11 funds have been granted to the State of Arizona for implemen-
12 tation of the Juvenile Justice and Delinquency Prevention Act
13 (Juvenile Justice Act).

14 92. Section 223(12) of the Juvenile Justice Act, 42 U.S.C.
15 §5633(12), provides that, in order to receive funding under the
16 Act, a state must comply with the requirements that juveniles
17 who are charged with or who have committed offenses which would
18 not be crimes if committed by an adult (status offenses) or
19 offenses which do not constitute violations of valid court
20 orders, and juvenile non-offenders such as dependent or
21 neglected children, shall not be placed in secure juvenile
22 detention or correctional facilities. Instead, a state must
23 require that such juveniles be placed in settings representing
24 the least restrictive alternatives appropriate to the needs of
25 the child in the community, and provide "community-based"
26 services, as defined in 42 U.S.C. §5603(1).

1 93. The defendants regularly confine juveniles in the
2 Detention Center who are charged with, or have committed offen-
3 ses which would not be crimes if committed by an adult, where
4 such offenses do not constitute violations of valid court orders.
5

6 V. LEGAL CLAIMS

7 94. For plaintiffs' claims, each enumerated below, they
8 reallege subparagraphs 22 through 93 above, as if fully set
9 forth herein, and in each and every statement of claim, and
10 further allege:

11 FIRST CLAIM FOR RELIEF

12 95. The policies, practices, acts and omissions of
13 defendants complained of herein regarding the conditions of
14 confinement in the secure detention unit at the Detention Center
15 subject plaintiffs to denial of due process of law, guaranteed
16 by the Fourteenth Amendment to the United States Constitution;
17 violate plaintiffs' right to privacy, guaranteed by the First,
18 Fourth, Fifth, Ninth and Fourteenth Amendments to the United
19 States Constitution, and violate plaintiffs' right to receive
20 treatment in the least restrictive setting and under the least
21 restrictive conditions, guaranteed by the Fourteenth Amendment
22 to the United States Constitution.

23 SECOND CLAIM FOR RELIEF

24 96. Defendants' policies, practices, acts and omissions,
25 complained of herein, specifically their imposition of disci-
26 pline resulting in substantial loss of rights and privileges

1 without prior notice and an opportunity for evidentiary hearing,
2 and their arbitrary use of prolonged punitive measures wholly
3 disproportionate to the seriousness of infractions or any need
4 to protect legitimate institutional interests, violate
5 plaintiffs' right to due process of law as guaranteed by the
6 Fourteenth Amendment to the United States Constitution.

7 THIRD CLAIM FOR RELIEF

8 97. The policies, practices, acts and omissions of
9 defendants complained of herein, specifically the use of leather
10 restraints and handcuffs for prolonged periods of time, have
11 violated and continue to violate plaintiffs' rights to freedom
12 from cruel and unusual punishment, due process and equal
13 protection of the laws guaranteed them by the Eighth and
14 Fourteenth Amendments to the United States Constitution.

15 FOURTH CLAIM FOR RELIEF

16 98. Defendants' policies, practices, acts, and omissions
17 complained of herein, specifically defendants' subjection of
18 plaintiffs to insufficient staffing, unsanitary, unsafe, and
19 illegal conditions of confinement in the Pima County Juvenile
20 Detention Center violate the plaintiffs' right to due process of
21 law, guaranteed by the Fourteenth Amendment to the United States
22 Constitution; violate plaintiffs' right to privacy, guaranteed
23 by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to
24 the United States Constitution; and violate plaintiffs right to
25 receive treatment in the least restrictive setting and under the
26 least restrictive conditions, guaranteed by the Fourteenth

1 Amendment to the United States Constitution.

2 FIFTH CLAIM FOR RELIEF

3 99. The policies, practices, acts and omissions of
4 defendants complained of herein have violated and continue to
5 violate plaintiffs' right to an appropriate and adequate
6 education while detained in the Pima County Juvenile Detention
7 Center, as well as a right to an education under Public Law
8 94-142 (the Education for All Handicapped Children Act), and
9 §504 of the Rehabilitation Act of 1973, (29 U.S.C. §794).

10 SIXTH CLAIM FOR RELIEF

11 100. The policies, practices, acts and omissions of
12 defendants complained of herein have violated and continue to
13 violate plaintiffs' right to appropriate recreation as guaran-
14 teed by the due process clause of the Fourteenth Amendment to
15 the United States Constitution.

16 SEVENTH CLAIM FOR RELIEF

17 101. Defendants' policies, practices, acts and omissions,
18 complained of herein, and specifically the failure of defendants
19 to provide adequate medical or mental health services to
20 plaintiffs, violate their right to due process as guaranteed by
21 the Fourteenth Amendment to the United States Constitution, and
22 violate plaintiffs' right to receive treatment in the least
23 restrictive setting and under the least restrictive conditions,
24 guaranteed by the Fourteenth Amendment to the United States
25 Constitution.

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ELEVENTH CLAIM FOR RELIEF

105. Defendants' policies, practices, acts and omissions complained of herein, specifically defendants' secure confinement in the Detention Center of status offenders and other juveniles presenting no danger to themselves or others, violate plaintiffs' rights under the Juvenile Justice Act, 42 U.S.C. §5633(12); subject plaintiffs to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments to the United States Constitution; violate plaintiffs' right of privacy, guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution; and violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution.

TWELFTH CLAIM FOR RELIEF

106. Defendants' policies, practices, acts and omissions complained of herein, specifically defendants' denial of prompt detention hearings on weekends and holidays in order to determine probable cause and conditions of release, is illegal and unconstitutional.

107. These acts violate plaintiffs' rights to due process and equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution, and to access to counsel as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution.

1 VI. PRAYER FOR RELIEF

2 WHEREFORE, plaintiffs pray that this Court:

3 1. Assume jurisdiction over this action;

4 2. Certify a class as defined herein, the named
5 plaintiffs to serve as representatives thereof;

6 3. Issue a declaratory judgment, pursuant to 28 U.S.C.
7 §§2201 and 2202, and Rule 57 of the Federal Rules of Civil
8 Procedure that the policies, practices, acts and omissions
9 complained of herein:

10 a. Violate plaintiffs' rights under the Juvenile
11 Justice Act, 42 U.S.C. §5601 et seq.;

12 b. Subject plaintiffs to denial of due process and
13 equal protection of law guaranteed by the Fourteenth
14 Amendment to the United States Constitution;

15 c. Subject plaintiffs to cruel and unusual
16 punishment, in violation of the Eighth and Fourteenth
17 Amendments to the United States Constitution;

18 d. Violate plaintiffs' right to receive treatment in
19 the least restrictive setting and under the least
20 restrictive conditions, guaranteed by the Fourteenth
21 Amendment to the United States Constitution;

22 e. Violate plaintiffs' right to privacy guaranteed by
23 the First, Fourth, Fifth, Ninth and Fourteenth Amendments
24 to the United States Constitution;

25 f. Violate plaintiffs' right to counsel under the
26 Sixth and Fourteenth Amendments to the United States

1 Constitution;

2 g. Violate plaintiffs' right to freedom of religion
3 under the First and Fourteenth Amendments to the United
4 States Constitution;

5 h. Violate plaintiffs' right to freedom of speech and
6 expression under the First and Fourteenth Amendments to the
7 United States Constitution;

8 i. Violate plaintiffs' rights under Public Law 94-142
9 (the Education of All Handicapped Children Act), 20 U.S.C.
10 §1401, et seq., and under §504 of the Rehabilitation Act of
11 1973, 29 U.S.C. §794;

12 4. Issue preliminary and permanent injunctive relief
13 restraining, prohibiting and otherwise enjoining defendants,
14 their agents, and employees from:

15 a. Detaining more than two juveniles in each secure
16 confinement cell;

17 b. Failing to provide a bed to each juvenile confined
18 in the Detention Center;

19 c. Requiring juveniles to eat meals in their cells;

20 d. Failing to provide a full and adequate recreation
21 program, including outdoor and large muscle exercise, to
22 all juveniles confined in the Detention Center;

23 e. Failing to provide special education and related
24 services to all juveniles in the Detention Center who are
25 eligible for special education;

26 f. Failing to provide plaintiffs with full and

adequate hearings before imposing any type of punishment;

g. Restraining or binding plaintiffs with leather restraints, handcuffs or other mechanical restraints as a form of punishment or behavior control or for any other reason;

h. Failing to provide plaintiffs with clean bedding while they are at the Detention Center;

i. Failing to provide plaintiffs with an amount of clean clothing while they are at the Detention Center, adequate to ensure that they can be clothed at all times;

j. Failing to provide plaintiffs with daily showers of reasonable duration while they are confined at the Detention Center;

k. Failing to provide plaintiffs with adequate ventilation, heat and light while they are confined in the Detention Center.

l. Failing to provide adequate staff to ensure the safety of plaintiffs in the event of an emergency;

m. Failing to screen plaintiffs for medical or psychological problems on admission to the Detention Center;

n. Failing to provide plaintiffs with adequate medical and psychiatric care while they are confined in the Detention Center;

o. Failing to provide plaintiffs with a private room in which to confer with their attorneys while they are

1 confined in the Detention Center;

2 p. Denying plaintiffs reasonable access to the courts
3 and counsel;

4 q. Failing to permit plaintiffs to visit with
5 friends and family members other than parents or legal
6 guardians while they are confined in the Detention Center;

7 r. Failing to establish a flexible schedule of
8 visiting hours adequate to ensure that plaintiffs are able
9 to visit with friends and family members while they are
10 confined to the Detention Center;

11 s. Failing to provide plaintiffs with the opportunity
12 to make outgoing and receive incoming telephone calls while
13 at the Detention Center;

14 t. Failing to provide plaintiffs with stamps to
15 enable them to send outgoing mail while at the Detention
16 Center;

17 u. Strip searching plaintiffs without reasonable
18 cause to believe that the plaintiff has concealed
19 contraband on his/her person;

20 v. Failing to provide plaintiffs with a detention
21 hearing within 24 hours of their arrest and confinement;

22 w. Confining juveniles who are charged with or who
23 have committed offenses which would not be crimes if
24 committed by adults, and which are not violations of valid
25 court orders, in the Pima County Detention Center;

26 5. Enter a judgment on behalf of the named plaintiffs

1 assessing general and special damages against defendants PIMA
2 COUNTY, RICHARD WILSON, ROBERT TUCKER, KATIE DUSENBERRY, CONRAD
3 JOYNER, SAM LENA, E. S. (BUD) WALKER, and DAVID YETMAN for
4 injuries suffered by plaintiffs as a proximate result of the
5 policies, practices, acts and omissions complained of herein, in
6 the amount to be established by the proof;

7 6. Enter a judgment on behalf of the named plaintiffs
8 assessing punitive damages against defendants RICHARD WILSON,
9 ROBERT TUCKER, KATIE DUSENBERRY, CONRAD JOYNER, SAM LENA, E. S.
10 (BUD) WALKER, and DAVID YETMAN for the policies, practices, acts
11 and omissions complained of herein, in the amount of \$100,000
12 against each said defendant;

13 7. Enter judgment on behalf of the named plaintiffs
14 assessing punitive damages against defendants ROBERT TUCKER and
15 RICHARD WILSON, individually, for intentionally interfering with
16 the plaintiffs' right of access to the courts and counsel in
17 connection with actions authorized by 42 U.S.C. §1983 and other
18 civil matters.

19 8. Retain jurisdiction over this action until defendants
20 have fully complied with all orders and judgments entered by
21 this Court;

22 9. Award plaintiffs reasonable attorneys' fees and
23 expenses pursuant to 42 U.S.C. §1988;

24 10. Grant plaintiffs their court costs herein; and

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26 //

1 11. Grant such other and further relief as the Court deems
2 just and reasonable.

3 DATED: _____
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10 _____
11 SUZANNE RABE

12
13 _____
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