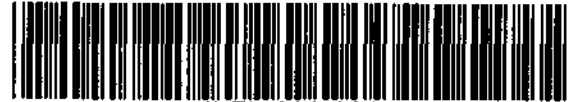


COMPLAINT

DRIFT BANK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

Bobby M. v. Chiles



Jl-FL-002-001

BOBBY M., CHARLES W., SUSAN S., and
SALVADORE S., minors, by and through
their next friend, DAVID MACK, on
behalf of themselves and all others
similarly situated,

Plaintiffs,

NO. TCA 83-7003

v.

COMPLAINT

ROBERT GRAHAM, individually and in his
official capacity as Governor of the
State of Florida;
DAVID H. PINGREE, individually and in his
official capacity as Secretary of the
Department of Health and Rehabilitative
Services for the State of Florida;
RALPH TURLINGTON, individually and in his
official capacity as Commissioner of the
Department of Education for the State of
Florida;
LENOX WILLIAMS, individually and in his
official capacity as Superintendent of
the Arthur G. Dozier School for Boys;
WILLIAM SCHOSSLER, individually and in
his official capacity as Superintendent
of the Alyce D. McPherson School; and
WESLEY BRAZELL, individually and in his
official capacity as Superintendent of
the Florida School for Boys.

Defendants.

Filed
1-5-83

INTRODUCTORY STATEMENT

1. This is a civil rights class action brought on behalf of
all children who have been, are now, or will be confined in the
three training schools in the State of Florida: Arthur G. Dozier
School for Boys in Marianna ("Dozier"); Alyce D. McPherson School
in Ocala ("McPherson"), a co-educational institution; and Florida

1 School for Boys at Okeechobee ("Okeechobee") (plaintiffs).
2 Defendants confine approximately 1,000 children in these
3 institutions.

4 2. Plaintiffs seek declaratory and injunctive relief from
5 cruel and abusive conditions of confinement imposed by defendants
6 that violate rights guaranteed to them by the First, Fourth, Sixth,
7 Eighth, and Fourteenth Amendments to the United States
8 Constitution, by federal statutes, and by the Florida Constitution
9 and statutes. These conditions seriously endanger plaintiffs'
10 physical and psychological health and safety, deprive them of any
11 access to or opportunity for treatment or education, and restrict
12 their access to and communication with their families, the
13 community, and the courts. In particular, defendants subject
14 plaintiffs to overcrowding, unsanitary and dangerous physical
15 conditions, lack of security, lack of adequate staff, lack of
16 medical care, abusive punishment including isolation, hogtying,
17 shackling, and physical abuse, lack of education and programming,
18 lack of due process in disciplinary matters, mail censorship, and
19 deprivation of access to courts.

20
21 JURISDICTION

22 3. This Court has jurisdiction of this action under 28
23 U.S.C. §1343(3) since this is an action to redress the deprivation,
24 under color of state law, of rights secured by the Constitution of
25 the United States; the Civil Rights Acts, 42 U.S.C. §1983; and
26 §504 of the Rehabilitation Act, 29 U.S.C. §794 et seq.

1 to his confinement, he attended special education classes. He sues
2 through his next friend, DAVID MACK.

3 10. Plaintiff SUSAN S. is a minor child and a citizen of the
4 United States. She is confined at McPherson School where she has
5 been confined since approximately March 29, 1981. She sues through
6 her next friend, DAVID MACK.

7 11. Plaintiff SALVADORE S. is a minor child and a resident
8 of the State of Florida. He is confined at Okeechobee. He is
9 Spanish-speaking. He sues through his next friend, DAVID MACK.

10 12. All named plaintiffs have been subjected to the
11 policies, practices, acts and omissions described in this
12 complaint.

13
14
15

DEPENDANTS

16 13. Defendant ROBERT GRAHAM is Governor of the State of
17 Florida. He is the chief executive officer of the State, and,
18 pursuant to Article IV, §1 of the Florida Constitution of 1968, is
19 responsible for the development and implementation of the policies,
20 practices and procedures described in this complaint, which are the
21 official policies, practices and procedures of the State of
22 Florida.

23 14. Defendant DAVID H. PINGREE is the Secretary of the
24 Department of Health and Rehabilitative Services ("HRS") for the
25 State of Florida. In this capacity, he is responsible, inter alia,
26 under Florida Statutes 20.05, 20.19, 402.22, 959.011, 959.021,

1 959.10, 959.12, and 959.25 for developing and implementing programs
2 for the care, education and treatment of persons committed to the
3 custody of the Department of Health and Rehabilitative Services,
4 including the operation of training schools.

5 15. Defendant RALPH TURLINGTON is the Commissioner of the
6 Department of Education of the State of Florida. Pursuant to
7 Florida Statutes 22.05, 22.15, 230.23(4)(m) and (n), 402.22 and
8 959.25, he is responsible for providing education and related
9 services to children confined in training schools in Florida.

10 16. Defendant LENOX WILLIAMS is the Superintendent of Dozier
11 School and is responsible for the policies, practices, acts and
12 omissions described in this complaint to the extent that they are
13 implemented or occur at Dozier.

14 17. Defendant WILLIAM SCHOSSLER is the Superintendent of
15 McPherson School and is responsible for the policies, practices,
16 acts and omissions described in this complaint to the extent that
17 they are implemented or occur at McPherson.

18 18. Defendant WESLEY BRAZELL is the Superintendent of
19 Okeechobee School and is responsible for the policies, practices,
20 acts and omissions described in this complaint to the extent that
21 they are implemented or occur at Okeechobee.

22 19. Defendants' policy manuals purport to prohibit certain
23 practices described in this complaint. Nevertheless, defendants or
24 and their agents and employees, with defendants' knowledge and
25 consent, routinely engage in such practices, so that such practices
26 constitute the actual policies and practices, customs and usages of

1 defendants.

2 20. All defendants are sued individually and in their
3 official capacities. At all relevant times, defendants have acted
4 under color of state law to deprive plaintiffs of their rights,
5 privileges and immunities under the Constitution and laws of the
6 United States.

7 CLASS ACTION

8 21. Named plaintiffs bring this action on behalf of
9 themselves and all others similarly situated pursuant to Rule 23(a)
10 and (b)(2) of the Federal Rules of Civil Procedure. The class
11 consists of all juveniles who are currently, who have been, or who
12 will be confined in the three Florida training schools, Dozier,
13 McPherson, and Okeechobee.

14 22. The members of the class are so numerous that joinder of
15 all members is impracticable. At the present time, the Florida
16 State training schools confine approximately 1,000 children.

17 23. Named plaintiffs and their counsel will fairly,
18 vigorously and adequately protect the interests of the class. The
19 claims of the named plaintiffs are typical of the claims of the
20 plaintiff class. At least one of the named plaintiffs has been
21 subjected to and suffered from each of the conditions, policies,
22 practices, acts and omissions complained of in this action.
23 Plaintiffs' counsel have substantial experience in this type of
24 litigation and have represented children in similar cases in
25 several states.

26 //

1 At Dozier and Okeechobee, defendants confine only boys; at
2 McPherson they confine both boys and girls. Dozier and Okeechobee
3 house boys from designated geographical catchment areas; McPherson
4 houses boys from its designated catchment area, and younger,
5 smaller boys and girls from all over the state. The Departments of
6 Education and Health and Human Resources, and all three training
7 schools, receive federal funds.

8 29. At these training schools, defendants confine boys and
9 girls who have been adjudicated delinquent in Florida juvenile
10 courts. Florida juvenile procedure does not afford children all of
11 the due process protections afforded to adults in criminal court.

12 30. In opposition to stated HRS policy, defendants confine
13 children as young as 10 years old, children who have committed only
14 minor offenses, and children who have had no previous involvement
15 with the juvenile court system in these institutions merely because
16 appropriate placements are not available.

17 COUNT ONE - Defendants GRAHAM, PAGE, SMITH and STREIT

18 Living Conditions, Food and Clothing

19 31. Plaintiffs repeat and reallege paragraphs 1 through 28
20 if fully set forward herein, and further allege:

21 32. Living units at the training schools are called
22 "cottages." Cottages contain one or more sleeping areas; lockers;
23 one or more bathroom areas containing toilets, sinks and showers;
24 and a large, open recreation area. At McPherson, cottages also
25 contain a kitchen and dining area. Most cottages use open
26 dormitories as sleeping areas.

1 33. The cottages are extremely overcrowded. At McPherson,
2 rooms built to house 4 children now house 8, cottages built for 16
3 children house 30. At Okeechobee, dormitories originally designed
4 for 17 children house 40. In Dozier, school dormitories originally
5 built for 20 children also house 40. At times children sleep on
6 mattresses on the floor because defendants do not provide enough
7 beds.

8 34. Because of the tension, lack of space and lack of
9 supervision caused by overcrowding, physical and sexual assaults
10 are common.

11 35. Because of overcrowding, defendants do not provide
12 children with adequate space, equipment or supervision for
13 recreation or leisure time activities.

14 36. Defendants deprive plaintiffs of all personal privacy in
15 their living areas. Children are not allowed to personalize their
16 living areas. The few personal belongings they are allowed to keep
17 must be stored in small lockers or boxes. At Dozier and
18 Okeechobee, defendants fail to provide doors or curtains on shower
19 and toilet areas, leaving those areas completely exposed to open
20 view.

21 37. Defendants maintain unhealthy and unsanitary conditions
22 at all three institutions. Defendants do not adequately clean or
23 maintain the buildings. Defendants maintain buildings which are
24 structurally unsound and which present serious danger in the event
25 of fire. Defendants force children to live in buildings that are
26 improperly heated, cooled, ventilated, or lighted. These buildings

1 do not have screens and are often insect-infested.

2 38. Defendants do not adequately feed and clothe plaintiffs.

3 39. Defendants do not provide children with clean, untorn,
4 appropriately-sized clothing.

5 40. Defendants do not provide meals which are adequate in
6 quantity or quality to meet the nutritional needs of growing
7 children or adolescents. Defendants prepare food under conditions
8 that are unhealthful and unsanitary. At Okeechobee and Dozier,
9 defendants do not provide children with anything to eat for the
10 almost fourteen hours between supper (at approximately 5:00 p.m.)
11 and breakfast (at approximately 7:00 a.m.).

12 41. By subjecting plaintiffs to overcrowding, inadequate food
13 and clothing, and unhealthful and unsanitary living conditions,
14 defendants GRAHAM, PAGE, SMITH and STREIT deprive plaintiffs of
15 their right to due process of law guaranteed by the Fourteenth
16 Amendment to the United States Constitution, of their right to be
17 free from cruel and unusual punishment as guaranteed by the Eighth
18 and Fourteenth Amendments to the United States Constitution, of
19 their right to treatment guaranteed by the Eighth and Fourteenth
20 Amendments to the United States Constitution, and of their right to
21 placement in the least restrictive alternative that will effectuate
22 the purpose of their confinement guaranteed by the due process
23 clause of the Fourteenth Amendment to the United States
24 Constitution.

25 COUNT TWO - Defendants GRAHAM, PAGE, SMITH and STREIT

26 Living Conditions, Food and Clothing - Pendent State Claims

1 42. Plaintiffs repeat and reallege paragraphs 29 through 39
2 as if fully set forward herein, and further allege:

3 43. By subjecting plaintiffs to overcrowding, inadequate
4 food and clothing, and unhealthful and unsanitary living
5 conditions, defendants GRAHAM, PAGE, SMITH and STREIT deprive
6 plaintiffs of basic rights, the right to due process, and the right
7 to be free from excessive punishment, guaranteed by Article One,
8 §§2, 9 and 17 of the Florida Constitution, and of rights guaranteed
9 by Fla. Stat. Chapters 39 and 959.

10 COUNT THREE - Defendants GRAHAM, PAGE, SMITH and STREIT

11 Lack of Security

12 44. Plaintiffs repeat and reallege paragraphs 1 through 41
13 as if fully set forward herein, and further allege:

14 45. Defendants further jeopardize plaintiffs' health and
15 safety by failing to provide adequate security in the
16 institutions.

17 46. Defendants completely fail to supervise and train staff.
18 As a result, children are victims of staff assaults. Defendants
19 have taken little or no action to curtail staff brutality. When
20 notified of abuses, defendants have failed to take action against
21 staff members involved.

22 47. Defendants have failed to design or implement a
23 classification system for residents at the schools. Defendants do
24 not separate children who have committed serious or violent
25 offenses from children who have committed only property crimes, or
26 do not separate children with emotional disturbances from the res-

1 of the population.

2 48. Defendants also fail to adequately supervise children at
3 the training schools.

4 49. Defendants' staff members encourage larger children to
5 assault or restrain smaller children as a means of disciplining and
6 controlling them. As a result, residents frequently assault each
7 other.

8 50. Defendants fail to provide adequate staff coverage in
9 any of the training schools. Defendants do not provide enough
10 staff to adequately supervise or treat children confined in the
11 training schools. As a result, defendants deny plaintiffs personal
12 security and safety in the institutions.

13 51. Defendants employ staff members who are inadequately
14 trained to perform childcare responsibilities. Defendants do not
15 provide staff with the psychological, sociological or medical
16 information necessary to care for and treat children in the
17 training schools.

18 52. Defendants aggravate the atmosphere of fear and violence
19 that prevails at these schools by using tracking dogs to hunt down
20 children who attempt to escape from either Okeechobee or Dozier.
21 Dog handlers terrorize and abuse children.

22 53. By their actions in failing to provide plaintiffs with
23 adequate security, safety, and supervision, defendants GRAHAM,
24 PAGE, SMITH AND STREIT deprive plaintiffs of their right to due
25 process of law guaranteed by the Fourteenth Amendment to the United
26 States Constitution, of their right to be free from cruel and

1 unusual punishment guaranteed by the Eighth and Fourteenth
2 Amendments to the United States Constitution, of their right to
3 treatment guaranteed by the Eighth and Fourteenth Amendments to the
4 United States Constitution, and of their right to confinement in
5 the least restrictive alternative that will effectuate the purposes
6 of their confinement guaranteed by the due process clause of the
7 Fourteenth Amendment to the United States Constitution.

8 COUNT FOUR - Defendants GRAHAM, PAGE, SMITH AND STREIT

9 Lack of Security - Pendent State Claims

10 54. Plaintiffs repeat and reallege paragraphs 42 through 51
11 as if fully set forward herein, and further allege:

12 55. By their actions in failing to provide plaintiffs with
13 adequate security, safety, and supervision, defendants GRAHAM,
14 PAGE, SMITH and STREIT deprive plaintiffs of basic rights, the
15 right to due process, and the right to be free from excessive
16 punishment guaranteed by Article One, §§2, 9 and 17 of the Florida
17 Constitution, and of rights guaranteed by Fla. Stat. Chapters 39
18 and 959.

19 COUNT FIVE - Defendants GRAHAM, PAGE, SMITH and STREIT

20 Medical Care

21 56. Plaintiffs repeat and reallege paragraphs 1 through 53
22 as if fully set forward herein, and further allege:

23 57. The medical care defendants provide at all three
24 institutions is grossly inadequate to maintain physical or mental
25 health. Defendants' failure to provide adequate medical care
26 amounts to deliberate indifference to the health and safety

1 requirements of children at these institutions.

2 58. Defendants fail to provide medical staffs at the
3 institutions that are adequate to meet children's needs.
4 Defendants fail to employ adequate numbers of physicians,
5 psychiatrists, psychiatric aides, nurses, nurses' aides or
6 dentists.

7 59. Defendants fail to provide adequate supplies in the
8 medical areas of all three schools. Defendants fail to provide
9 supplies necessary to maintain a healthy and sanitary environment,
10 or equipment necessary to provide adequate medical, dental or
11 psychiatric treatment.

12 60. Defendants have failed to design and implement an
13 adequate procedure for preventing, treating and containing
14 contagious diseases, including venereal diseases. Defendants fail
15 to remove children with contagious diseases from the general
16 population.

17 61. Defendants maintain infirmaries at the training schools
18 in an unsanitary, unhygienic, and medically unsafe manner.
19 Defendants maintain infirmaries that are insect-infested. They are
20 often uncomfortably hot or cold. Defendants have required children
21 to sleep on mattresses without sheets. Defendants fail to provide
22 plaintiffs with pajamas or appropriate hospital attire in medical
23 areas. Defendants do not permit children to shower or bathe every
24 day while they are in the infirmary.

25 62. By failing to provide plaintiffs with adequate medical
26 and psychiatric care and treatment, defendants GRAHAM, PAGE, SMITH

1 AND STREIT deprive plaintiffs of their right to due process of law
2 guaranteed by the Fourteenth Amendment to the United States
3 Constitution, of their right to be free from cruel and unusual
4 punishment guaranteed by the Eighth and Fourteenth Amendments to
5 the United States Constitution, of their right to treatment
6 guaranteed by the Eighth and Fourteenth Amendments to the United
7 States Constitution, and of their right to placement in the least
8 restrictive alternative that will effectuate the purposes of their
9 confinement, guaranteed by the due process clause of the Fourteenth
10 Amendment.

11 COUNT SIX - Defendants GRAHAM, PAGE, SMITH and STREIT
12 Medical Care to Handicapped Students

13 63. Plaintiffs repeat and reallege paragraphs 54 through 60
14 as if fully set forward herein, and further allege:

15 64. By failing to provide adequate medical and psychiatric
16 care and treatment to handicapped plaintiffs, defendants GRAHAM,
17 PAGE, SMITH and STREIT discriminate against plaintiffs and punish
18 them solely by reason of their handicap, violating rights
19 guaranteed to them by §504 of the Rehabilitation Act, 29
20 U.S.C. §794 and regulations promulgated thereunder.

21 COUNT SEVEN - Defendants GRAHAM, PAGE, SMITH and STREIT
22 Medical Care - Pendent State Claims

23 65. Plaintiffs repeat and reallege paragraphs 54 through 62
24 as if fully set forward herein, and further allege:

25 66. By failing to provide plaintiffs with adequate medical
26 and psychiatric care and treatment, defendants GRAHAM, PAGE,

1 SMITH and STREIT deprive plaintiffs of basic rights, the right to
2 due process, and the right to be free from excessive punishment
3 guaranteed to them by Article One, §§2, 9 and 17 of the Florida
4 Constitution, and of rights guaranteed by Fla. Stat. Chapters 39
5 and 959, and §§402.22 and 230.23.

6 COUNT EIGHT - Defendants GRAHAM, PAGE, SMITH and STREIT

7 Psychological Counseling

8 67. Plaintiffs repeat and reallege paragraphs 1 through 64
9 as if fully set forward herein, and further allege:

10 68. Defendants fail to provide plaintiffs with adequate
11 psychological care and treatment.

12 69. Defendants fail to adequately assess children's
13 psychological condition at or before the time of their admission to
14 the training schools. As a result, defendants confine children
15 with serious psychological illnesses, children who are mentally
16 retarded, and children who are otherwise handicapped or
17 developmentally disabled in training schools where they cannot
18 adequately be treated.

19 70. Defendants fail to design and implement an adequate
20 treatment plan for each child at the training schools. As a
21 result, defendants fail to provide children with appropriate
22 rehabilitation or treatment.

23 71. Defendants do not employ or make available a sufficient
24 number of qualified psychologists or social workers to counsel and
25 treat children.

26 72. Defendants delegate the responsibility for providing

1 plaintiffs with direct psychological treatment to persons who are
2 inadequately trained and supervised. As a result, children do not
3 receive psychological treatment.

4 73. By failing to provide plaintiffs with adequate
5 psychological assessment, care and treatment, defendants GRAHAM,
6 PAGE, SMITH and STREIT deprive plaintiffs of their right to due
7 process of law guaranteed by the Fourteenth Amendment to the United
8 States Constitution, of their right to be free from cruel and
9 unusual punishment guaranteed by the Eighth and Fourteenth
10 Amendments to the United States Constitution, of their right to
11 treatment guaranteed by the Eighth and Fourteenth Amendments to the
12 United States Constitution, and of their right to placement in the
13 least restrictive alternative that will effectuate the purposes of
14 their confinement, guaranteed by the due process clause of the
15 Fourteenth Amendment.

16 COUNT NINE - Defendants GRAHAM, PAGE, SMITH and STREIT
17 Psychological Counseling - Handicapped Children

18 74. Plaintiffs repeat and reallege paragraphs 65 through 71
19 as if fully set forward herein, and further allege:

20 75. By failing to provide adequate psychological assessment
21 care and treatment to handicapped plaintiffs, defendants GRAHAM,
22 PAGE, SMITH and STREIT discriminate against plaintiffs and punish
23 them solely by reason of their handicap, violating rights
24 guaranteed to them by §504 of the Rehabilitation Act, 29
25 U.S.C. §794 and regulations promulgated thereunder.

26 COUNT TEN - Defendants GRAHAM, PAGE and STREIT

1 Psychological Counseling - Pendent State Claims

2 76. Plaintiffs repeat and reallege paragraphs 65 through 73
3 as if fully set forward herein, and further allege:

4 77. By failing to provide plaintiffs with adequate
5 psychological assessment, care and treatment, defendants GRAHAM,
6 PAGE, SMITH and STREIT deprive plaintiffs of basic rights, the
7 right to due process, and the right to be free from excessive
8 punishment guaranteed to them by Article One, §§2, 9 and 17 of the
9 Florida Constitution, and of rights guaranteed to them by
10 Fla. Stat. Chapters 39 and 959, and §§402.22 and 230.23
11 COUNT ELEVEN - Defendants GRAHAM, PAGE, SMITH and STREIT

12 Isolation

13 78. Plaintiffs repeat and reallege paragraph 1 through 73 as
14 though fully set forward herein, and further allege:

15 79. Defendants operate "adjustment units" at all three
16 training schools. They use these adjustment units for purposes of
17 discipline and control.

18 80. At McPherson and Okeechobee, these units consist of
19 several individual isolation cells. At Dozier, the adjustment
20 unit contains 10 isolation cells and 3 open dormitory areas.
21 Defendants use isolation at Dozier to further punish children who
22 are confined in the adjustment unit.

23 81. The isolation cells are similar in all three
24 institutions. Each cell contains a concrete platform, a sink, and
25 an open toilet. Defendants put mattresses, pillows, and blankets
26 in the cells at night, but, at Dozier and Okeechobee often remove

1 them as punishment.

2 82. Each isolation cell is separated from the corridor by a
3 heavy locked metal door. This door has a small view window
4 approximately 4-1/2 feet from the ground and a T-shaped slot
5 approximately 2-1/2 feet from the ground. Children can communicate
6 with the outside only through the T-shaped slot. This slot can
7 only be closed or opened from the outside. Staff frequently close
8 these slots, depriving children of any contact with the outside
9 while they are in isolation.

10 83. The physical conditions in the isolation cells endanger
11 children's health and safety. Cells are unventilated, poorly
12 lighted and unsanitary. Children must eat their meals next to
13 open, uncleaned toilet fixtures. Because they are locked,
14 isolation cells pose a serious danger in case of fire, and
15 defendants have completely failed to develop procedures for
16 evacuating plaintiffs from these cells in case of fire.

17 84. Defendants confine depressed, agitated and emotionally
18 disturbed children in isolation cells. Defendants make no effort
19 to protect children against self-inflicted injuries. Isolation
20 cells contain many sharp objects such as screens and vents and
21 breakable porcelain toilet fixtures. All these objects can be, and
22 are, used by children to injure themselves. Defendants fail to
23 adequately monitor children in isolation to ensure that they do not
24 injure themselves.

25 85. Defendants subject children to long periods of isolation
26 in bare concrete walled cells. They do not provide children with

1 access to television, radio or reading materials. Communication
2 with other children or staff is minimal. Children held under these
3 conditions suffer severe sensory deprivation.

4 86. Defendants often confine children in isolation for 24
5 hours a day. At Dozier and Okeechobee, defendants fail to provide
6 any programming for children in isolation. At McPherson,
7 defendants permit some children in isolation to leave their cells
8 for a brief period to obtain their school assignments and for an
9 hour a day of exercise. Defendants also fail to provide any
10 programming for children in the open dormitory areas of the
11 adjustment unit at Dozier School. Children in this unit can go
12 outside or into a common area, but receive no recreational or
13 educational materials for the duration of their stay in the
14 adjustment unit.

15 87. Defendants' regulations permit children to be confined
16 in security units for up to 21 days. In fact, children often
17 remain in isolation units for longer periods of time.

18 88. Defendants confine children to adjustment units for
19 minor incidents, including disrespect for staff members,
20 altercations with other children, and refusal to promptly obey
21 orders. Defendants confine children to adjustment units for
22 behaviors caused by mental or emotional illnesses and other
23 handicaps, instead of providing plaintiffs with treatment for these
24 illnesses and handicaps.

25 89. By subjecting plaintiffs to the practices of isolation
26 described above, defendants GRAHAM, PAGE, SMITH and STREIT deprive

1 plaintiffs of their right to due process of law guaranteed by the
2 Fourteenth Amendment to the United States Constitution, of their
3 right to be free from cruel and unusual punishment guaranteed by
4 the Eighth and Fourteenth Amendments to the United States
5 Constitution, of their right to treatment guaranteed by the Eighth
6 and Fourteenth Amendments to the United States Constitution, and of
7 their right to placement in the least restrictive alternative that
8 will effectuate the purposes of their confinement guaranteed by the
9 due process clause of the Fourteenth Amendment to the United States
10 Constitution.

11 COUNT TWELVE - Defendants GRAHAM, PAGE, SMITH and STREIT

12 Isolation - Handicapped Plaintiffs

13 90. Plaintiffs repeat and reallege paragraphs 76 through 87
14 as if fully set forward herein, and further allege:

15 91. By confining handicapped plaintiffs to isolation as
16 described above, defendants GRAHAM, PAGE, SMITH and STREIT
17 discriminate against them and punish them solely by reason of
18 their handicap, thus violating rights guaranteed to them by §504 of
19 the Rehabilitation Act, 29 U.S.C. §794 and regulations promulgated
20 thereunder.

21 COUNT THIRTEEN - Defendants GRAHAM, PAGE, SMITH and STREIT

22 Isolation - Pendent State Claims

23 92. Plaintiffs repeat and reallege paragraphs 76 through 89
24 as if fully set forward herein, and further allege:

25 93. By subjecting plaintiffs to the practices of isolation
26 described above, defendants GRAHAM, PAGE, SMITH and STREIT deprive

1 plaintiffs of basic rights, of the right to due process, and of the
2 right to be free from excessive punishment guaranteed to them by
3 Article One, §§ 2, 9 and 17 of the Florida Constitution, and of
4 rights guaranteed by Fla. Stat. Chapters 39 and 959.

5 COUNT FOURTEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH and
6 STREIT

7 Shackling

8 94. Plaintiffs repeat and reallege paragraphs 1 through 91
9 as though fully set forward herein, and further allege:

10 95. Defendants use shackles in the adjustment units as a
11 means of discipline and of controlling children's behavior.

12 96. Defendants use several methods of shackling. At Dozier
13 and Okeechobee, defendants use a particularly harmful method called
14 "hogtying." Defendants hogtie children by forcing them to lie on
15 their stomachs, handcuffing their wrists behind their backs,
16 shackling their legs together and connecting the handcuffs to the
17 leg shackles.

18 97. At all three schools, defendants handcuff children,
19 chain their hands to their waists, and use leg shackles.
20 Defendants frequently use metal handcuffs and metal leg restraints
21 to restrict children's movement. Use of these metal restraints has
22 been shown to cause serious injury to developing children.

23 98. At Dozier School, educational staff also use shackles to
24 restrain plaintiffs in the educational area.

25 99. Defendants' employees at all three schools have, on many
26 occasions, beaten or kicked children while they were shackled or

1 hogtied.

2 100. Defendants leave children locked in isolation cells
3 lying on concrete beds, sometimes without sheets or mattresses,
4 hogtied or shackled, for extended periods of time.

5 101. Plaintiffs have suffered and continue to suffer serious
6 physical and emotional damage as a result of extended isolation,
7 shackling, hogtying, and beatings.

8 102. By subjecting plaintiffs to the practices of shackling
9 described above, defendants GRAHAM, PAGE, TURLINGTON, SMITH and
10 STREIT deprive plaintiffs of their right to due process of law
11 guaranteed by the Fourteenth Amendment to the United States
12 Constitution, of their right to be free from cruel and unusual
13 punishment guaranteed by the Eighth and Fourteenth Amendments to
14 the United States Constitution, of their right to treatment
15 guaranteed by the Eighth and Fourteenth Amendments to the United
16 States Constitution, and of their right to placement in the least
17 restrictive alternative that will effectuate the purposes of their
18 confinement guaranteed by the due process clause of the Fourteenth
19 Amendment to the United States Constitution.

20 COUNT FIFTEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH and

21 STREIT

22 Shackling Handicapped Plaintiffs

23 103. Plaintiffs repeat and reallege paragraphs 92 through 10
24 as if fully set forward herein, and further allege:

25 104. By shackling handicapped plaintiffs as described above,
26 defendants GRAHAM, PAGE, TURLINGTON, SMITH AND STREIT discriminate

1 against them and punish them solely by reason of their handicap,
2 thus violating rights guaranteed to them by §504 of the
3 Rehabilitation Act, 29 U.S.C. §794 and regulations promulgated
4 thereunder.

5 COUNT SIXTEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH and
6 STREIT

7 Shackling - Pendent State Claims

8 105. Plaintiffs repeat and reallege paragraphs 92 through 101
9 as if fully set forward herein, and further allege:

10 106. By subjecting plaintiffs to the practice of shackling
11 described above, defendants GRAHAM, PAGE, TURLINGTON, SMITH and
12 STREIT deprive plaintiffs of basic rights, the right to due
13 process, and the right to be free from excessive punishment
14 guaranteed to them by Article One, §§2, 9 and 17 of the Florida
15 Constitution, and of rights guaranteed by Fla. Stat. Chapters 39
16 and 959.

17 COUNT SEVENTEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH and
18 STREIT

19 Education and Programming

20 107. Plaintiffs repeat and reallege paragraphs 1 through 104
21 as though fully set forward herein, and further allege:

22 108. Defendants fail to provide plaintiffs with an adequate
23 education comparable to that available to plaintiffs in the
24 community.

25 109. Defendants fail to provide bilingual education or
26 services to children who are not fluent in English.

1 110. Defendants fail to provide adequate vocational
2 education. The vocational education they do provide is inadequate
3 to prepare children to obtain employment upon release.

4 111. Defendants fail to provide children with other forms of
5 programming. They require children to spend prolonged periods of
6 time without any programmed activity or recreational or therapeutic
7 programming.

8 112. Defendants fail to provide rehabilitative treatment to
9 plaintiffs.

10 113. The Florida Departments of Education and Health and
11 Human Services, and each of the training schools, receive federal
12 funds under, inter alia, Public Law 94-142, the Education for All
13 Handicapped Children Act, 20 U.S.C. §§1401 et seq.

14 114. Defendants fail to provide special education and related
15 services to handicapped children who were receiving such services
16 prior to their incarceration. Defendants fail to adequately
17 assess children to determine whether they have special needs and
18 how such special needs can be met. Defendants fail to develop
19 appropriate individualized education programs for children who need
20 special education. Defendants fail to provide appropriate related
21 services, including speech therapy, physical therapy and
22 psychological services, to handicapped children who need such
23 services to benefit from their education.

24 115. By failing to provide plaintiffs with adequate
25 educational services described above, defendants GRAHAM, PAGE,
26 TURLINGTON, SMITH and STREIT deprive plaintiffs of their right to

1 equal protection and due process of law guaranteed by the
2 Fourteenth Amendment to the United States Constitution, of their
3 right to be free from cruel and unusual punishment guaranteed by
4 the Eighth and Fourteenth Amendments to the United States
5 Constitution, of their right to treatment guaranteed by the Eighth
6 and Fourteenth Amendments to the United States Constitution, and of
7 their right to placement in the least restrictive alternative that
8 will effectuate the purposes of their confinement guaranteed by the
9 due process clause of the Fourteenth Amendment to the United States
10 Constitution.

11 COUNT EIGHTEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH
12 and STREIT

13 Education and Programming - Discrimination Against Handicapped
14 Students

15 116. Plaintiffs repeat and reallege paragraphs 105 through
16 113 as if fully set forward herein, and further allege:

17 117. By failing to provide otherwise qualified handicapped
18 plaintiffs with adequate educational services as described above,
19 defendants GRAHAM, PAGE, TURLINGTON, SMITH and STREIT discriminate
20 against them by reason of their handicap, thus violating rights
21 guaranteed to them by §504 of the Rehabilitation Act, 29
22 U.S.C. §794 and regulations promulgated thereunder.

23 COUNT NINETEEN - Defendants GRAHAM, PAGE, TURLINGTON, SMITH and
24 STREIT

25 Educational Programming - Failure to Provide Special Education

26 118. Plaintiffs repeat and reallege paragraphs 105 through