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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

JON DESROSIERS, a minor, by and through
his next friends Norma and Gonzaque
Desrosiers; and BILLIE JO GRANT, a minor,
by and through her next friend Margaret
Jordan, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

ANDROSCOGGIN COUNTY, MAINE;

RONALD B. GAGNON, individually
and in his official capacity as Sheriff
of Androscoggin County, Maine;

CAROL BOYCE, JAMES DOUGHERTY, and
EMILE JACQUES, individually and
in their official capacities as County
Commissioners of Androscoggin County,
Maine,

Defendants.

Civ. No. 85-00091P
FIRST AMENDED CIVIL
RIGHTS COMPLAINT FOR
DECLARATORY, INJUNCTIVE,
AND OTHER EQUITABLE
RELIEF AND DAMAGES
(CLASS ACTION)

INTRODUCTORY STATEMENT

1. This is a civil rights class action challenging the conditions of
confinement for juveniles at the Androscoggin County jail, in Auburn,
Maine, and the policies and practices of defendants in confining juveniles
therein. Plaintiffs JON DESROSIERS, through his parents Norma and Gonzaque
Desrosiers as his next friends, and BILLIE JO GRANT, through her mother
Margaret Jordan as her next friend, bring this action for declaratory,
injunctive, and other equitable relief and damages, on behalf of themselves
and all other juveniles similarly situated who are, have been, or will in
the future be confined in the Androscoggin County jail, and thereby

1 subjected by defendants to cruel, unconscionable, and illegal conditions of
2 confinement in the jail; to illegal incarceration in the jail without
3 adequate separation from confined adult offenders; to unlawful secure
4 detention in the jail of juveniles who are charged with who have committed
5 offenses which would not be criminal if committed by adults ("status
6 offenses"); and to denial of adequate and appropriate community placements
7 as alternatives to the jail.

8 2. Plaintiffs bring this action under the federal Civil Rights Act,
9 42 U.S.C. Section 1983, to redress the violations by defendants, acting
10 under color of state law, of the rights of plaintiffs under the Fourteenth
11 Amendment to the United States Constitution, specifically the right to due
12 process of law and the right to freedom from cruel and unusual punishments.
13 Plaintiffs also bring this action under 42 U.S.C. Section 1983 to redress
14 the violations by defendants, under color of state law, of plaintiffs'
15 statutory rights under the Juvenile Justice and Delinquency Prevention Act
16 of 1974, as amended, 42 U.S.C. Sections 5601 et seq. ["Juvenile Justice
17 Act"], as more particularly set forth in this complaint.

18 3. Plaintiffs also bring this action under the Juvenile Justice Act to
19 challenge (a) the detention of plaintiffs by defendants in the Androscoggin
20 County jail, without adequate separation from confined adult offenders;
21 (b) the detention by defendants in the jail, a secure facility, of plaintiffs
22 who are charged with or who have committed offenses which would not be
23 criminal if committed by adults; (c) the failure and refusal of defendants
24 to provide and utilize adequate and appropriate placements as alternatives
25 to the jail.

26 4. Plaintiffs also bring this action under applicable Maine statutes.

1 sued individually and in his official capacity.

2 14. Defendants CAROL BOYCE, JAMES DOUGHERTY, and EMILE JACQUES are the
3 County Commissioners of Androscoggin County, Maine. As such, they are
4 responsible under, inter alia, 30 M.R.S.A. Sections 1851, 1854, and 1858,
5 for periodically examining the jail, for taking necessary precautions for
6 the security of prisoners, the prevention of infection and sickness and
7 for their accommodations; for procuring all necessary supplies, including
8 necessary food, fuel, bedding and clothing for the jail and the prisoners
9 therein; and for making such additions in suitable accommodations in the
10 jail as may be found necessary for the safekeeping of prisoners therein.
11 These defendants are sued individually and in their official capacities.

12 CLASS ACTION

13 15. Plaintiffs JON DESROSIERS and BILLIE JO GRANT bring this action on
14 behalf of themselves and all others similarly situated, pursuant to Rule
15 23(a), (b)(1) and (b)(2) of the Federal Rules of Civil Procedure. The
16 class consists of all juveniles who are currently, have been during the
17 past year or in the future will be confined in the Androscoggin County
18 jail.

19 16. The members of the class are so numerous that joinder of all
20 members is impracticable. According to available information, more than
21 300 juveniles were confined in the Androscoggin County jail during 1984.
22 In addition, there are questions of law and fact common to the members of
23 the plaintiff class regarding practices of the defendants, and the claims
24 of the named plaintiff are typical of the claims of the members of the
25 plaintiff class. The named plaintiffs and plaintiffs' counsel will fairly
26 and adequately protect the interests of the members of the class.

1 butts, and dirt. The paint on the walls and ceilings is peeling off. The
2 doors to the holding cells are made of crossed metal strips, making it
3 difficult, if not impossible, for jail personnel to monitor persons
4 detained in the holding cells. Defendants fail and refuse to provide any
5 adequate sanitation or maintenance of the holding cells.

6 24. Defendants incarcerate juveniles for longer periods of time,
7 usually more than six hours, in a barred cellblock in the basement level of
8 the jail. The cellblock consists of three individual cells, each
9 containing an institutional-type bed attached to the wall and an
10 institutional toilet-sink combination, and a small open area outside of the
11 individual cells.

12 25. Like the holding cells on the first floor of the jail, the cells
13 and open area in the juvenile cellblock are filthy, strewn with trash,
14 debris, cigarette butts, and garbage. The toilets in the juvenile
15 cellblock are foul, fetid, and feculent. Defendants fail and refuse to
16 provide any adequate sanitation or maintenance of the juvenile cellblock.

17 26. Defendants fail to provide and maintain an adequate classification
18 system for juvenile inmates. Consequently, unadjudicated juveniles are not
19 separated from adjudicated juveniles, and juveniles charged with minor
20 offenses are not separated from juveniles charged with serious offenses.

21 27. Defendants fail to provide adequate medical or psychological
22 screening or examination for plaintiffs when plaintiffs are taken into
23 custody. Defendants fail to provide regular medical or mental health
24 services to plaintiffs.

25 28. Defendants confine plaintiffs in the holding cells or in the
26 juvenile cellblock for virtually the entire periods of their incarceration,

1 allowing plaintiffs out of the holding cells only to use a toilet in
2 another part of the jail, and allowing plaintiffs out of the juvenile
3 cellblock only to go to the dining hall for meals.

4 29. Defendants fail to provide plaintiffs with any opportunities for
5 exercise or recreation during their periods of confinement.

6 30. Defendants fail to provide plaintiffs with any programming or
7 activities during their periods of confinement.

8 31. Defendants fail to provide plaintiffs with an adequate educational
9 program during their periods of confinement.

10 32. Defendants fail to provide jail personnel who are trained in
11 identifying and responding to problems of juveniles. Defendants' failure
12 to provide adequately trained staff results in lack of attention to
13 problems of plaintiffs during their confinement, lack of appropriate
14 assessment of plaintiffs' physical and emotional needs, and lack of
15 programs for plaintiffs during their confinement. Such failure subjects
16 plaintiffs to serious danger at the hands of institutional personnel, other
17 inmates, and themselves.

18 33. Defendants fail to hire qualified personnel who can respond to and
19 provide for the needs of plaintiffs in the jail.

20 34. Defendants fail to adequately supervise jail personnel who are
21 responsible for plaintiffs in the jail.

22 35. Defendants fail to adequately monitor plaintiffs in their cells.

23 36. Defendants fail to equip and maintain an adequate audio or visual
24 monitoring system at the jail.

25 37. Defendants fail to keep plaintiffs separated by sight and sound
26 from adult inmates confined in the jail. Plaintiffs confined in the

1 holding cells on the first floor of the jail have sight and sound contact
2 with virtually all inmates brought into the jail during said plaintiffs'
3 periods of confinement, since adult inmates are brought into the jail
4 directly past the holding cells where said plaintiffs are confined.

5 Plaintiffs confined in the juvenile cellblock in the basement level of the
6 jail have contact with adult inmates when they are taken by jail personnel
7 through an adult male cellblock to the dining hall, and when they receive
8 their food in the dining hall from adult male trustees.

9 38. Defendants fail to implement and promulgate rules and regulations
10 for the proper handling and treatment of plaintiffs.

11 39. As a result of defendants' policies, practices, acts and
12 omissions, as described herein, plaintiffs' confinement by defendants in
13 the Androscoggin County jail is cruel, harsh, punitive, and oppressive.

14 II. SECURE DETENTION OF STATUS OFFENDERS

15 40. Since 1980, the State of Maine has received funds totalling more
16 than \$1,400,000 from the federal Office of Juvenile Justice and Delinquency
17 Prevention, an agency of the United States Department of Justice. These
18 funds have been granted to the state for implementation of the Juvenile
19 Justice Act.

20 41. Section 223(12) of the Juvenile Justice Act, 42 U.S.C. Section
21 5633(12), provides that, in order to receive funding under the Act, a state
22 must comply with the requirement that juveniles who are charged with or who
23 have committed offenses which would not be criminal if committed by an
24 adult ("status offenses"), or offenses which do not constitute violations
25 of valid court orders, and such non-offenders as dependent or neglected
26 children, shall not be placed in secure juvenile detention or correctional

1 facilities. Instead, a state must require that such juveniles, if placed
2 in facilities at all, are placed in facilities which are the least
3 restrictive alternatives appropriate to the needs of the child and the
4 community, are in reasonable proximity to the family and the home
5 community, and provide "community-based" services, as defined in 42 U.S.C.
6 Section 5630(1).

7 42. The defendants regularly confine and detain in the Androscoggin
8 County jail juveniles who are charged with or who have committed offenses
9 which would not be criminal if committed by an adult, where such offenses do
10 not constitute violations of valid court orders.

11 43. Similar numbers of status offenders have been confined in the
12 Androscoggin County jail in previous years under similar circumstances, and
13 similar numbers will be confined in the future under such circumstances
14 unless plaintiffs are granted the relief requested herein.

15 III. DETENTION OF JUVENILES IN JAIL WITHOUT
16 ADEQUATE SEPARATION FROM ADULT OFFENDERS.

17 44. Section 223(13) of the Juvenile Justice Act, 42 U.S.C. Section
18 5633(13), provides that, in order to receive funding under the Act, a state
19 must comply with the requirement that juveniles alleged to be or found to
20 be delinquent shall not be detained or confined in any institution in which
21 they have regular contact with adult persons incarcerated because they have
22 been convicted of a crime or are awaiting trial on criminal charges.

23 45. The defendants regularly confine and detain juveniles alleged to
24 be or found to be delinquents, as well as juveniles alleged to be or found
25 to be status offenders, in the Androscoggin County jail, where such
26 juveniles have regular contact with adult persons incarcerated because

1 they have been convicted of a crime or are awaiting trial on criminal
2 charges.

3 46. 15 M.R.S.A. Section 3203 provides, inter alia, that a juvenile may
4 be detained in a jail or other security facility intended or used primarily
5 for the detention of adults only when the facility provides for no regular
6 contact between the juveniles and the adult inmates.

7 47. The defendants regularly confine and detain plaintiffs in the
8 Androscoggin County jail where plaintiffs have regular contact with adult
9 inmates.

10 48. Similar numbers of children have been confined in the
11 Androscoggin County jail in previous years under similar circumstances, and
12 similar numbers will be confined in the future under such circumstances
13 unless plaintiffs are granted the relief requested herein.

14 IV. FAILURE AND REFUSAL TO PROVIDE AND UTILIZE
15 APPROPRIATE COMMUNITY-BASED ALTERNATIVES TO
16 PLACEMENT OF JUVENILES IN THE ANDROSCOGGIN
COUNTY JAIL.

17 49. Section 223(12) of the Juvenile Justice Act, 42 U.S.C. Section
18 5633(12), requires states receiving funding under the Act to provide non-
19 secure placements for status offenders and non-offenders as alternatives to
20 placement in jails and other secure facilities. Such non-secure placements
21 must be the least restrictive alternative appropriate to the needs of the
22 children and the community, must be in reasonable proximity to the
23 children's families and the home communities, and must provide "community-
24 based" services. Section 103(1) of the Juvenile Justice Act, 42 U.S.C.
25 Section 5603(1), defines "community-based" facility, program or service as "a
26 small, open group home or other suitable place located near the juvenile's

1 home or family and programs of community supervision and service which
2 maintain community and consumer participation in the planning, operation,
3 and evaluation of their programs which may include, but are not limited to,
4 medical, educational, vocational, social, and psychological guidance,
5 training, counseling, alcoholism treatment, drug treatment, and other
6 rehabilitative services."

7 50. The defendants fail and refuse to provide and utilize
8 appropriate, less restrictive, community-based placements as alternatives
9 to detention of plaintiffs in the Androscoggin County jail. Defendants
10 will continue to fail and refuse to provide and utilize such alternatives
11 unless plaintiffs are granted the relief requested herein.

12 V. CRUEL, UNCONSCIONABLE AND ILLEGAL CONDITIONS OF CONFINEMENT

13 51. Defendants regularly subject plaintiffs to the cruel,
14 unconscionable and illegal conditions of confinement described above.
15 Defendants have similarly confined and detained juveniles in the Androscoggin
16 County jail under such conditions in previous years, and defendants will
17 continue to confine juveniles under such conditions in the future unless
18 plaintiffs are granted the relief requested herein.

19 52. Plaintiffs JON DESROSIERS and BILLIE JO GRANT and the members of
20 the plaintiff class have been and continue to be subjected by defendants to
21 the conditions of confinement and policies and practices of defendants
22 complained of herein.

23 53. As a proximate result of the policies, practices, acts, and
24 omissions of defendants complained of herein, plaintiffs have suffered and
25 continue to suffer serious physical, psychological, and emotional injuries.

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LEGAL CLAIMS

54. For plaintiffs' claims, each enumerated below, they reallege paragraphs 1 through 53 above, as if fully set forth herein, in each and every statement of claim, and further allege:

FIRST CLAIM

55. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' subjection of plaintiffs to the cruel, unconscionable and illegal conditions of confinement in the Androscoggin County jail, subject plaintiffs to denial of due process of law and to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution; and violate plaintiffs' rights under the Maine statutory sections cited herein.

SECOND CLAIM

56. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' secure confinement and detention in the Androscoggin County jail 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. Section 5633(12); subject plaintiffs to denial of due process of law and to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution; and violate plaintiffs' rights under the Maine statutory sections cited herein.

THIRD CLAIM

57. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' detention and confinement of juveniles in the Androscoggin County jail without adequate separation from adult

1 offenders, violate plaintiffs' rights under the Juvenile Justice Act, 42
2 U.S.C. Section 5633(13); subject plaintiffs to denial of due process of
3 law and to cruel and unusual punishments, in violation of the Eighth and
4 Fourteenth Amendments to the United States Constitution; and violate
5 plaintiffs' rights under the Maine statutory sections cited herein.

6 FOURTH CLAIM

7 58. Defendants' policies, practices, acts and omissions complained of
8 herein, and specifically defendants' failure and refusal to provide and
9 utilize appropriate community-based alternatives to placement of juveniles
10 in the Androscoggin County jail, violate plaintiffs' rights under the
11 Juvenile Justice Act, 42 U.S.C. Sections 5633(12) and 5603(1); subject
12 plaintiffs to denial of due process of law and to cruel and unusual
13 punishments, in violation of the Eighth and Fourteenth Amendments to the
14 United States Constitution; and violate plaintiffs' rights under the Maine
15 statutory sections cited herein.

16 NO ADEQUATE REMEDY AT LAW

17 59. As a proximate result of the defendants' policies, practices, acts
18 and omissions complained of herein, and the conditions and circumstances
19 described herein to which plaintiffs are subjected, plaintiffs have
20 suffered, do suffer, and will continue to suffer immediate and irreparable
21 injury. Plaintiffs have no plain, adequate, or complete remedy at law to
22 redress the wrongs described herein. Plaintiffs will continue to be
23 irreparably injured by the policies, practices, acts and omissions of the
24 defendants unless this Court grants the injunctive relief which plaintiffs
25 seek.

26 //

1 (a) a clean, sanitary, well-maintained environment;
2 (b) an adequate classification system;
3 (c) adequate medical and psychological screening and
4 examination, and adequate regular medical and mental health services;
5 (d) regular opportunities for exercise and recreation;
6 (e) programming and other activities;
7 (f) an adequate educational program;
8 (g) adequately trained jail personnel;
9 (h) adequately qualified jail personnel;
10 (i) adequate supervision of jail personnel;
11 (j) adequate monitoring;
12 (k) complete separation from adult inmates;
13 (l) adequate rules and regulations for the proper handling
14 and treatment of plaintiffs.

15 (2) Restraining and prohibiting defendants from confining or
16 detaining in the Androscoggin County jail or in any other secure facility
17 any juvenile who is charged with or who has committed an offense which
18 would not be criminal if committed by an adult, where such offense does not
19 constitute a violation of a valid court order.

20 (3) Restraining and prohibiting all defendants from failing to
21 provide and utilize appropriate community-based alternatives to placement
22 of juveniles in the Androscoggin County jail.

23 E. Issue preliminary and permanent injunctions restraining and
24 prohibiting all defendants from transferring any plaintiff to any other
25 jail or any other facility where there exist the conditions complained of
26 herein.

1 F. Order the defendants to develop and implement a comprehensive plan
2 for the correction of the unlawful policies, practices, acts and omissions
3 complained of herein, and to submit said plan to the Court and to the
4 attorneys for plaintiffs for review.

5 G. Appoint a Special Master to review and insure implementation of the
6 plan submitted by defendants and to protect the rights of plaintiffs during
7 the pendency of this action.

8 H. Retain jurisdiction over the defendants until such time as the
9 Court is satisfied that their unlawful policies, practices, acts and
10 omissions complained of herein no longer exist and will not recur.

11 I. For the injuries to plaintiff JON DESROSIERS, award general damages
12 against each of the defendants, except defendants SCALES, BELIVEAU, and
13 KRAVCHUCK, in the amount of \$200,000, or such damages as may be proven at
14 trial.

15 J. For the injuries to plaintiff JON DESROSIERS, award special damages
16 against each of the defendants, except defendants SCALES, BELIVEAU, and
17 KRAVCHUCK, in such amount as may be proven at trial.

18 K. For the injuries to plaintiff JON DESROSIERS, award punitive
19 damages against defendants GAGNON, BOYCE, DOUGHTERY, and JACQUES in the
20 amount of \$500,000.

21 L. For the injuries to plaintiff BILLIE JO GRANT, award general
22 damages against each of the defendants, in the amount of \$50,000, or such
23 damages as may be proven at trial.

24 M. For the injuries to plaintiff BILLIE JO GRANT, award special
25 damages against each of the defendants, in such amount as may be proven at
26 trial.

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N. For the injuries to plaintiff BILLIE JO GRANT, award punitive damages against defendants GAGNON, BOYCE, DOUGHTERY, and JACQUES, in the amount of \$10,000.

O. Award plaintiffs the cost of this proceeding, attorneys' fees, and such other and further relief as to this Court seems just and proper.

Dated this ____ day of July, 1985.

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