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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

DEBORAH DOE, a minor, by and through  
her Next Friend, John Doe; and  
ROBERT ROE, a minor, by and through  
his Next Friend, Richard Roe; on  
behalf of themselves and all others  
similarly situated,

Civil Action No.  
C-1-81-415

Plaintiffs,

vs.

CIVIL RIGHTS COMPLAINT  
FOR INJUNCTIVE,  
DECLARATORY AND  
EQUITABLE RELIEF  
AND DAMAGES

LLOYD W. BURWELL, Juvenile Court  
Judge of Lawrence County, Ohio, in  
his official capacity;

(CLASS ACTION)

MARK A. MALONE, DONALD LAMBERT,  
and DR. CARL T. BAKER, as the  
County Commissioners of Lawrence  
County Ohio, individually and in  
their official capacities;

DANIEL HIERONIMUS, Sheriff of  
Lawrence County, Ohio, individually  
and in his official capacity; and

LAWRENCE COUNTY, OHIO,

Defendants.

INTRODUCTORY STATEMENT

1  
2           1. This is a civil rights class action for declaratory,  
3 injunctive, and other equitable relief and damages, brought by  
4 juveniles confined in the Lawrence County Jail, in Ironton, Ohio,  
5 on behalf of themselves and all other juveniles similarly  
6 situated who are subjected by defendants to cruel,  
7 unconscionable and illegal conditions of confinement in said  
8 jail; abuses of judicial authority, including arbitrary and  
9 capricious confinement in said jail; illegal incarceration in  
10 said jail without adequate separation from confined adult  
11 offenders; unlawful secure detention in said jail of juveniles  
12 who are charged with or who have committed offenses which would  
13 not be criminal if committed by adults ("status offenses");  
14 denial of adequate and appropriate placements as alternative to  
15 said jail; and false imprisonment in said jail.

16           2. Plaintiffs bring this action under the federal Civil  
17 Rights Acts, 42 U.S.C. §§1983 and 1988, to redress the  
18 violations by defendants, acting under color of state law, of  
19 plaintiffs' rights under the Fourteenth Amendment to the United  
20 States Constitution, specifically plaintiffs' right to due  
21 process of law, right to freedom from cruel and unusual  
22 punishments, rights to freedom of association and to the free  
23 exercise of religion, right to privacy, and right to  
24 rehabilitative treatment in the least restrictive setting and  
25 under the least restrictive conditions. Plaintiffs also bring  
26 this action under 42 U.S.C. §§1983 and 1988 to redress the  
27 violations by defendants, under color of state law, of  
28 plaintiffs' statutory rights under the Juvenile Justice and  
29 Delinquency Prevention Act of 1974, as amended, 42 U.S.C. §5601  
30 et seq. [hereafter, "Juvenile Justice Act"], as more particularly  
31 set forth hereinafter.

32           3. Plaintiffs also bring this action under the Juvenile

1 Justice Act to challenge (a) the detention of plaintiffs by  
2 defendants in the Lawrence County Jail, without adequate  
3 separation from confined adult offenders; (b) the detention by  
4 defendants, in said jail, a secure facility, of plaintiffs who  
5 are charged with or who have committed offenses which would not  
6 be criminal if committed by adults; (c) the failure and refusal  
7 of defendants to provide and utilize adequate and appropriate  
8 placements as alternatives to said jail.

9           4. Plaintiffs also bring this action under Article I,  
10 Sections 1, 2, 9, and 16 of the Constitution of the State of  
11 Ohio, Ohio Revised Code §§341.01, 2151.10, 2151.23, 2151.312,  
12 2151.34, and Rules 6, 7, 8, and 9 of the Ohio Rules of Juvenile  
13 Procedure.

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JURISDICTION

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2 5. This Court has jurisdiction of this action under 28  
3 U.S.C. §1343(3), this being an action to redress the  
4 deprivation, under color of state law, of rights secured by the  
5 Constitution of the United States, the Civil Rights Acts, 42  
6 U.S.C. §§1983 and 1988, and the Juvenile Justice Act, 42 U.S.C.  
7 §§5601 et seq.

8 6. This Court also has jurisdiction of this action under  
9 28 U.S.C. §1343(4), this being an action to recover damages and  
10 to secure declaratory, injunctive, and other equitable relief  
11 under Acts of Congress providing for the protection of civil  
12 rights, specifically the Civil Rights Acts, 42 U.S.C. §§1983 and  
13 1988, and the Juvenile Justice Act.

14 7. This Court also has jurisdiction of this action under  
15 28 U.S.C. §§2201 and 2202, and Rules 57 and 65 of the Federal  
16 Rules of Civil Procedure, this being an action for a declaration  
17 of the rights of Plaintiffs, and for injunctive and other  
18 equitable relief based upon said declaratory judgment, under the  
19 Civil Rights Act, 42 U.S.C. §§1983 and 1988, and the Juvenile  
20 Justice Act.

21 8. This Court also has jurisdiction of this action under  
22 28 U.S.C. §1331(a), this being an action wherein the matter in  
23 controversy arises under the Constitution and laws of the United  
24 States.

25 9. This Court has jurisdiction of plaintiffs' state law  
26 claims under the doctrine of pendent jurisdiction, which permits  
27 federal courts to determine state law claims which form separate  
28 but parallel grounds for relief also sought in substantial  
29 claims based on federal law.

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PLAINTIFFS

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2 10. Plaintiff DEBORAH DOE is a juvenile, fifteen years of  
3 age, and a citizen of the United States. At all times during  
4 the events described herein, said Plaintiff has resided in  
5 Lawrence County, Ohio, with John Doe and Jane Doe, her parents.  
6 Plaintiff ROBERT ROE is a juvenile, sixteen years of age, and a  
7 citizen of the United States. At all times during the events  
8 described herein, said Plaintiff has resided in Lawrence County,  
9 Ohio, with Richard Roe and Alice Roe, his parents. Plaintiff  
10 POE is a juvenile, years of age, and a  
11 citizen of the United States. At all times during the events  
12 described herein, said Plaintiff has resided in Lawrence County,  
13 Ohio, with Peter Poe and Mary Poe, parents. Said Plaintiffs  
14 are actual persons who sue under fictitious names because they  
15 fear retribution from the defendants and humiliation and  
16 embarrassment from friends, neighbors, and the public for their  
17 participation in this litigation.

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DEFENDANTS

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2 11. Defendant LLOYD W. BURWELL is the Juvenile Court  
3 Judge of Lawrence County, Ohio. As such, said defendant is  
4 responsible under Ohio Revised Code §§2151.10, 2151.23,  
5 2151.312, and 2151.34, and under Rules 6, 7, 8, and 9 of the  
6 Ohio Rules of Juvenile Procedure, for the detention, custody,  
7 care, placement and release of all children brought before the  
8 juvenile court who are alleged to be juvenile traffic offenders,  
9 delinquents, unruly, abused, neglected, or dependent. Said  
10 defendant is sued in his official capacity.

11 12. Defendants MARK A. MALONE, DONALD LAMBERT, and Dr.  
12 CARL T. BAKER are the County Commissioners of Lawrence County,  
13 Ohio. As such, said defendants are responsible under Ohio  
14 Revised Code §§2151.10 and 2151.34 for appropriating such sums  
15 of money as well provide for the maintenance and operation of  
16 juvenile detention facilities and placements, and for the care,  
17 maintenance, education, and support of neglected, abused,  
18 dependent, unruly, and delinquent children. Said defendants are  
19 sued individually and in their official capacities.

20 13. Defendant DANIEL HIERONIMUS is the sheriff of  
21 Lawrence County, Ohio. As such, said defendant is responsible  
22 under Ohio Revised Code §341.01 for the safety and welfare of  
23 all persons confined in the Lawrence County Jail. Said  
24 defendant is sued individually and in his official capacity.

25 13a. Defendant LAWRENCE COUNTY, OHIO, is a local  
26 government unit in the state of Ohio. In its capacity as a  
27 local governing body, said defendant has implemented, executed,  
28 and adopted the policies, practices, acts and omissions  
29 complained of herein through formal adoption or pursuant to  
30 governmental custom. The practices, acts and omissions  
31 complained of herein are customs and usages of defendant  
32 LAWRENCE COUNTY, OHIO.

CLASS ACTION

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2 14. Plaintiffs bring this action on behalf of themselves  
3 and all others similarly situated, pursuant to Rule 23(a),  
4 (b)(1) and (b)(2) of the Federal Rules of Civil Procedure. The  
5 class consists of all juveniles who are currently, have been  
6 during the past two years, and in the future will be confined in  
7 the Lawrence County Jail.

8 15. The members of the class are so numerous that joinder  
9 of all members is impracticable. According to the available  
10 statistics, 178 juveniles were confined in the Lawrence County  
11 Jail in 1979. In addition, there are questions of law and fact  
12 common to the members of the plaintiff class regarding practices  
13 of the defendants, and the claims of the named plaintiffs are  
14 typical of the claims of the members of the plaintiff class.  
15 The named plaintiffs and plaintiffs' counsel will fairly and  
16 adequately protect the interests of the members of the class.

17 16. The prosecution of separate actions by individual  
18 members of the class would create a risk of inconsistent or  
19 varying adjudications with respect to individual members of the  
20 class which would as a practical matter be dispositive of the  
21 interests of the other members not parties to the adjudications  
22 or substantially impair or impede their ability to protect their  
23 interests.

24 17. By their policies, the defendants have acted and  
25 continue to act on grounds and in a manner generally applicable  
26 to the class, thereby making appropriate final injunctive relief  
27 or corresponding declaratory relief with respect to the class as  
28 a whole.

29 18. The injuries suffered by the named plaintiffs and the  
30 members of the plaintiff class as a result of the policies and  
31 practices of defendants complained of herein are capable of  
32 repetition, yet may evade review, thereby making class relief  
appropriate.

1 FACTUAL ALLEGATIONS

2 I. CONDITIONS AT THE LAWRENCE COUNTY JAIL

3 19. The Lawrence County Jail is a secure building located  
4 at 115 South 5th Street, Ironton, Ohio. The jail was built in  
5 1974.

6 20. The Lawrence County Jail was designed to hold a  
7 maximum of sixty prisoners in cells in the cellblocks, plus an  
8 additional number of prisoners in the small "holding tank." The  
9 cells in the cellblocks and the holding tank are frequently  
10 overcrowded with prisoners.

11 21. The Lawrence County Jail contains several cellblocks  
12 on both sides of a main hall corridor. On the east side of the  
13 main hall corridor are located three cellblocks. The cellblock  
14 nearest the entrance to the jail contains female prisoners.  
15 Adjoining the female cellblock is another cellblock containing  
16 juvenile male prisoners. Adjoining the juvenile male cellblock  
17 is the third cellblock, containing adult male trustees. Each  
18 cellblock contains three individual cells.

19 22. On the west side of the main hall corridor are  
20 located several cellblocks containing adult male prisoners.

21 23. There is an open area and catwalk above the  
22 cellblocks.

23 24. The individual cells in the cellblocks are  
24 approximately four feet wide and seven feet long. Each cell  
25 contains a bed, a commode, and a shower. The cells contain no  
26 other furniture or fixtures.

27 25. Plaintiffs confined in the jail for more than two  
28 days are issued green institutional-type coveralls by defendants  
29 and are required to wear said coveralls during their confinement  
30 in the jail.

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1           26. Defendants fail to provide plaintiffs with supplies  
2 necessary to maintain personal hygiene, such as soap, shampoo,  
3 toothpaste, and toothbrushes. Defendants allow plaintiffs to  
4 have these items only if plaintiffs are able to purchase such  
5 items through the jail commissary.

6           27. Defendants confine plaintiffs to their cellblocks  
7 during the entire period of their confinement, except when  
8 plaintiffs meet with visitors. Defendants fail to provide  
9 plaintiffs with opportunities or facilities for exercise or  
10 recreation.

11           28. Defendants do not allow plaintiffs to telephone  
12 relatives, ministers, or friends during the period of  
13 plaintiffs' incarceration in the jail.

14           29. Defendants fail to provide stamps or stationery for  
15 plaintiffs to correspond with family members, attorneys, or  
16 friends. Defendants allow plaintiffs to send letters to family  
17 members, attorneys or friends only if plaintiffs are able to  
18 purchase stamps and stationery.

19           30. Defendants do not allow plaintiffs to have visits  
20 from family members except on Tuesdays and Thursdays.  
21 Defendants fail to provide any suitable area for visits from  
22 family members, and plaintiffs must visit with family members in  
23 hallways in the jail.

24           31. Defendants fail to provide plaintiffs with any  
25 suitable area for conferences with attorneys.

26           32. Defendants fail to provide any medical or  
27 psychological screening or examination for plaintiffs when they

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1 are taken into custody. Defendants fail to provide regular  
2 medical or mental health services to plaintiffs.

3 33. Defendants fail to provide jail personnel who are  
4 trained in identifying and responding to problems of juveniles.  
5 Defendants' failure to provide trained staff results in lack of  
6 attention to problems of plaintiffs during their confinement,  
7 lack of appropriate assessment of plaintiffs' physical and  
8 emotional needs, and lack of programs for plaintiffs during  
9 their confinement.

10 34. Defendants fail to provide plaintiffs with any  
11 educational program during plaintiffs' period of confinement.

12 35. Defendants confine and detain plaintiffs in the  
13 Lawrence County Jail where plaintiffs are not separated by sight  
14 and sound from adults confined in the jail. Defendants confine  
15 female juvenile plaintiffs in the same cellblock in which  
16 female adult inmates are confined. Female juvenile plaintiffs  
17 are thus commingled with female adult inmates, with a total  
18 absence of separation. In addition, male and female adult  
19 inmates can communicate verbally with male and female juveniles  
20 confined in the jail, since there is no adequate separation by  
21 sound of males from females or adults from juveniles in the  
22 jail. Plaintiffs also have regular contact with adult inmate  
23 trustees in the jail.

24 36. As a result of defendants' policies and practices  
25 complained of herein, plaintiffs' confinement in the Lawrence  
26 County Jail is cruel, harsh, punitive and oppressive.  
27 Defendants subject plaintiffs to an atmosphere and an  
28 environment in said jail which are totally unlike the atmosphere  
29 and environment of a family home or appropriate detention  
30 facility.

31 37. Named plaintiff DEBORAH DOE was taken into custody by  
32 the defendants during February, 1981, on the ground that she had

1 temporarily run away from her parents' home. Said plaintiff  
2 had, in fact, voluntarily returned to her parents' home before  
3 she was taken into custody by the defendants. Soon after said  
4 plaintiff was taken into custody, she was confined in the  
5 Lawrence County Jail. During her confinement in the Lawrence  
6 County Jail, said plaintiff was subjected to the circumstances  
7 and conditions complained of herein. In addition, during her  
8 confinement in the Lawrence County Jail, said plaintiff was  
9 subjected to sexual battery by an adult male deputy jailer and/  
10 or two adult male inmates at the jail, all of whom were under  
11 the supervision of the defendants herein. Said plaintiff was  
12 subsequently released from custody and placed on probation until  
13 the end of 1981 by defendant BURWELL. Said plaintiff can and  
14 will be returned to confinement in the Lawrence County Jail at  
15 any time that defendant BURWELL determines that said plaintiff  
16 has violated her probation. Named plaintiff ROBERT ROE was  
17 taken into custody on April 17, 1981, and charged with theft.  
18 Soon after said plaintiff was taken into custody, he was con-  
19 fined in the Lawrence County Jail, where he was subjected to the  
20 circumstances and conditions complained of herein. Said  
21 plaintiff was recently transferred from the Lawrence County Jail  
22 to another placement, but he remains under the jurisdiction and  
23 supervision of defendant BURWELL, and can and will be returned  
24 to confinement in the jail at any time that defendant BURWELL  
25 determines that said plaintiff has violated his probation.  
26 Named plaintiff POE was taken into custody on ,  
27 1981, and charged with . Soon after  
28 said plaintiff was taken into custody, said plaintiff was  
29 confined in the Lawrence County Jail, where said plaintiff is  
30 currently being incarcerated. Said plaintiff is currently being  
31 subjected to the circumstances and conditions complained of  
32 herein.

1 II. DETENTION OF JUVENILES IN THE LAWRENCE COUNTY JAIL

2 38. During 1979, 178 juveniles were confined in the  
3 Lawrence County Jail.

4 39. Defendants confine and detain in the Lawrence County  
5 Jail significantly more juveniles than are similarly confined  
6 and detained in other counties in Ohio. Statistics on numbers  
7 of juveniles confined in county jails in Ohio and juvenile  
8 populations of the various counties indicate that  
9 proportionately more juveniles are confined and detained in the  
10 Lawrence County Jail than are confined and detained in any other  
11 county in Ohio.

12 40. During 1979, juveniles detained in Lawrence County  
13 Jail were confined for an average of five days each. Upon  
14 information and belief, juveniles were similarly detained in  
15 1980, and are currently detained in the jail are confined for a  
16 similar period of time.

17 41. Available statistics indicate that during 1979, one  
18 out of every eighty juveniles in Lawrence County between the  
19 ages of 5 and 17 was locked up in the Lawrence County Jail for  
20 five days. Upon information and belief, the same percentage of  
21 juveniles is being detained in the jail at the present time.

22 42. Defendants knowingly confine and detain plaintiffs  
23 without their consent and without proper legal authority.

24 43. The defendants will continue to confine and detain  
25 excessive numbers of juveniles in the Lawrence County Jail  
26 unless plaintiffs are granted the relief requested herein.

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1 III. ABUSES OF JUDICIAL AUTHORITY

2 44. Defendant LLOYD W. BURWELL, Juvenile Court Judge of  
3 Lawrence County, regularly subjects plaintiffs to arbitrary and  
4 capricious abuses of his judicial authority.

5 45. Defendant BURWELL, as a matter of policy and  
6 practice, arbitrarily and capriciously confines in the Lawrence  
7 County Jail plaintiffs who are charged with offenses which would  
8 not be crimes if committed by adults. For example, defendant  
9 BURWELL confines alleged truants in the jail, ordering such  
10 juveniles held in detention one day for each day such juveniles  
11 are allegedly truant from school.

12 46. Defendant BURWELL, as a matter of policy and  
13 practice, arbitrarily and capriciously confines plaintiffs in  
14 the Lawrence County Jail when detention of such juveniles is not  
15 required to protect the person and property of others or those  
16 of the juveniles, there is no danger that the juveniles would  
17 abscond or be removed from the jurisdiction of the court, and  
18 there are parents, guardians, or custodians or other persons  
19 able to provide supervision and care for the juveniles and  
20 return them to court when required.

21 47. Defendant BRUWELL, as a matter of policy and  
22 practice, arbitrarily and capriciously orders that plaintiffs  
23 confined in the Lawrence County Jail be denied needed medical  
24 care and medication.

25 48. Defendant BURWELL, as a matter of policy and  
26 practice, arbitrarily and capriciously orders that plaintiffs be  
27 prohibited from having visits from parents or relatives. Said  
28 defendant threatens to hold such parents and relatives in  
29 contempt of court, and to summarily incarcerate them, if they  
30 attempt to visit said plaintiffs.

31 49. Defendant BURWELL, as a matter of policy and  
32 practice, arbitrarily and capriciously denies plaintiffs prompt

1 detention hearings, for the purpose of punishing plaintiffs by  
2 confining them in the Lawrence County Jail for periods longer  
3 than the seventy-two hour maximum established by Rule 7 of the  
4 Ohio Rules of Juvenile Procedure.

5 50. Defendant BURWELL, as a matter of policy and  
6 practice, arbitrarily and capriciously threatens, intimidates,  
7 and harasses plaintiffs and their parents and relatives during  
8 court proceedings, including threatening plaintiffs with  
9 corporal punishment by large paddles which said defendant keeps  
10 in his courthouse.

11 51. Defendant BURWELL, as a matter of policy and  
12 practice, arbitrarily and capriciously confines and detains  
13 plaintiffs in the Lawrence County Jail on the basis of  
14 extrajudicial information which has not been properly received  
15 in evidence at detention hearings.

16 52. Defendant BURWELL, as a matter of policy and  
17 practice, arbitrarily and capriciously coerces and intimidates  
18 plaintiffs into waiving plaintiffs' constitutional right to  
19 counsel.

20 53. Defendant BURWELL, as a matter of policy and  
21 practice, arbitrarily and capriciously commits plaintiffs to the  
22 Lawrence County Jail when other more appropriate and less  
23 restrictive alternatives are available.

24 54. Defendant BURWELL, as a matter of policy and  
25 practice, arbitrarily and capriciously threatens to confine and  
26 detain plaintiffs in Lawrence County Jail if they do not leave  
27 Lawrence County permanently.

28 55. Defendant BURWELL, as a matter of policy and  
29 practice, arbitrarily and capriciously threatens to have  
30 plaintiffs arrested without probable cause if they appear in the  
31 city of Ironton.

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1           56. Defendant BURWELL, as a matter of policy and  
2 practice, arbitrarily and capriciously orders plaintiffs placed  
3 in programs in other states, when appropriate placements are  
4 available in the state of Ohio.

5           57. The arbitrary and capricious abuses of judicial  
6 authority by defendant BURWELL will continue unless plaintiffs  
7 are granted the relief requested herein.

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1 IV. SECURE DETENTION OF STATUS OFFENDERS AND OTHER JUVENILES  
2 PRESENTING NO DANGER TO THEMSELVES OR OTHERS

3 58. Since 1976, the State of Ohio has received funds  
4 totalling more than \$14,000,000. from the federal office Office  
5 of Juvenile Justice and Delinquency Prevention, an agency of the  
6 Law Enforcement Assistance Administration, which is part of the  
7 United States Department of Justice. Said funds have been  
8 granted to the State for implementation of the Juvenile Justice  
9 Act.

10 59. Section 223(12) of the Juvenile Justice Act, 42  
11 U.S.C. §5633(12), provides that, in order to receive funding  
12 under the Act, a State must comply with the requirement that  
13 juveniles who are charged with or who have committed offenses  
14 which would not be criminal if committed by an adult ("status  
15 offenses"), or offenses which do not constitute violations of  
16 valid court orders, and such nonoffenders as dependent or  
17 neglected children, shall not be placed in secure juvenile  
18 detention or correctional facilities. Instead, a State must  
19 require that such juveniles, if placed in facilities at all, are  
20 placed in facilities which are the least restrictive  
21 alternatives appropriate to the needs of the child and the  
22 community, are in reasonable proximity to the family and the  
23 home community, and provide "community-based" services, as  
24 defined in 42 U.S.C. §5603(1).

25 60. The defendants regularly confine and detain in the  
26 Lawrence County Jail juveniles who are charged with or who have  
27 committed offenses which would not be criminal if committed by  
28 an adult, where such offenses do not constitute violations of  
29 valid court orders. During 1979, at least 33 status offenders  
30 were confined and detained in the jail. Similar numbers of  
31 status offenders have been confined in the Lawrence County Jail  
32 in previous years, and similar numbers will be confined in the



1 future unless plaintiffs are granted the relief requested  
2 herein.

3           61. Rule 7 of the Ohio Rules of Juvenile Procedure  
4 provides that a child taken into custody shall not be placed in  
5 detention or shelter care prior to final disposition unless his  
6 detention or care is required to protect the person and property  
7 of others or those of the child, or the child may abscond or be  
8 removed from the jurisdiction of the court, or he has no parent,  
9 guardian, or custodian or other person able to provide  
10 supervision and care for him and return him to the court when  
11 required.

12           62. The defendants regularly confine and detain in the  
13 Lawrence County Jail juveniles for whom detention or care is not  
14 required to protect the person or property of others or those of  
15 the child, there is no danger that the child will abscond or be  
16 removed from the jurisdiction of the court, and there are  
17 parents, guardians, or custodians or other persons able to  
18 provide supervision over him and return him to the court when  
19 required. Many of the 178 juveniles detained in th jail during  
20 1979 were not properly detained under Rule 7 of the Ohio Rules  
21 of Juvenile Procedure. Similar numbers of juveniles have been  
22 confined in the Lawrence County Jail in previous years, and  
23 similar numbers will be confined in the future unless plaintiffs  
24 are granted the relief requested herein.

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1 V. DETENTION OF JUVENILES IN JAIL WITHOUT ADEQUATE  
2 SEPARATION FROM ADULT OFFENDERS.

3 63. Section 223(13) of the Juvenile Justice Act, 42  
4 U.S.C. §5633(13), provides that, in order to receive funding  
5 under the Act, a State must comply with the requirement that  
6 juveniles alleged to be or found to be delinquent, and youths  
7 within the purview of section 223(12) of the Act [described in  
8 Paragraph 57 above], shall not be detained or confined in any  
9 institution in which they have regular contact with adult  
10 persons incarcerated because they have been convicted of a crime  
11 or are awaiting trial on criminal charges.

12 64. The defendants regularly confine and detain juveniles  
13 alleged to be or found to be delinquents, and juveniles alleged  
14 to be or found to be status offenders, in the Lawrence County  
15 Jail, where such juveniles have regular contact with adult  
16 persons incarcerated because they have been convicted of a crime  
17 or are awaiting trial on criminal charges. During 1979, 178  
18 such juveniles were confined and detained in said jail. Similar  
19 numbers of juveniles have been confined and detained in the  
20 Lawrence County Jail in previous years, and similar numbers will  
21 be confined and detained in the future unless plaintiffs are  
22 granted the relief requested herein.

23 65. Ohio Revised Code §§2151.312 and 2151.34 and Rule 7  
24 of the Ohio Rules of Juvenile Procedure provide that no child  
25 shall be placed in or committed to any prison, jail, lockup or  
26 any other place where such child can come into contact or  
27 communication with any adult convicted of crime, under arrest or  
28 charged with crime. Ohio Revised Code §§2151.312 and 2151.34  
29 and Rule 7 further provide that a child may be detained in a  
30 jail or other facility for detention of adults only if (1) the  
31 child is alleged to be delinquent, (2) there is no detention  
32 center or other appropriate facility available, (3) the

1 detention is in a room separate and removed from those for  
2 adults, and (4) public safety or protection of the child or  
3 others reasonably requires such detention.

4         66. The defendants regularly confine and detain juveniles  
5 in the Lawrence County Jail in violation of the requirements of  
6 Ohio Revised Code §§2151.312 and 2151.34 and Rule 7 of the Ohio  
7 Rules of Juveniles Procedure. Juveniles have been similarly  
8 confined and detained in the Lawrence County Jail in previous  
9 years, and juveniles will be similarly confined and detained in  
10 the future unless plaintiffs are granted the relief requested  
11 herein.

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1 IV. FAILURE AND REFUSAL TO PROVIDE AND UTILIZE  
2 APPROPRIATE COMMUNITY-BASED ALTERNATIVES TO  
3 PLACEMENT OF JUVENILES IN LAWRENCE COUNTY JAIL

4 67. Section 223(12) of the Juvenile Justice Act, 42  
5 U.S.C. §5633(12), requires States receiving funding under the  
6 Act to provide non-secure placements for status offenders and  
7 nonoffenders as alternatives to placement in jails and other  
8 secure facilities. Such non-secure placements must be the least  
9 restrictive alternative appropriate to the needs of the children  
10 and the community, must be in reasonable proximity to the  
11 children's families and the home communities, and must provide  
12 "community-based" services. Section 103(1) of the Juvenile  
13 Justice Act, 42 U.S.C. §5603(1), defines "community based"  
14 facility, program or service as "a small, open group home or  
15 other suitable place located near the juveniles's home or  
16 family and programs of community supervision and service which  
17 maintain community and consumer participation in the planning,  
18 operation, and evaluation of their programs which may include,  
19 but are not limited to, medical, educational, vocational,  
20 social, and psychological guidance, training, counseling,  
21 alcoholism treatment, drug treatment, and other rehabilitative  
22 services."

23 68. Ohio Revised Code §2151.34 provides that a detention  
24 home for juveniles shall be furnished and carried on, as far as  
25 possible, as a family home in charge of a superintendent or  
26 matron in a non-punitive neutral atmosphere; that an education  
27 program with competent and trained staff shall be provided for  
28 children of school age; that a sufficient number of trained  
29 recreational personnel shall be included among the staff to  
30 assure wholesome and profitable leisure-time activities; and  
31 that medical and mental health services shall be made available  
32 for the juveniles. Ohio Revised Code §2151.34 further provides  
that in any county in which there is no detention home, or which

1 is not served by a district detention home, the board of county  
2 commissioners shall provide funds for the boarding of juveniles  
3 in private homes, in certified or uncertified foster homes, or  
4 in other appropriate placements arranged by ther county  
5 department of welfare, county children services board, or other  
6 certified organization.

7           69. The defendants fail and refuse to provide and utilize  
8 an appropriate detention home or other community-based  
9 alternatives to placement of juveniles in the Lawrence County  
10 Jail. Instead the defendants regularly confine and detain  
11 juveniles in Lawrence County Jail. Defendant BURWELL also  
12 orders juveniles placed in programs in other states, when  
13 appropriate placements are available in the state of Ohio.  
14 Juveniles in Lawrence County are similarly been denied access  
15 to, and placement in, an appropriate detention home or other  
16 community-based alternatives in previous years, and juveniles in  
17 Lawrence County will be similarly denied such placements in the  
18 future unless plaintiffs are granted the relief requested  
19 herein.

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VII. CRUEL, UNCONSCIONABLE AND ILLEGAL CONDITIONS  
OF CONFINEMENT

70. Defendants regularly subject plaintiffs to the cruel,  
unconscionable and illegal conditions of confinement described  
above. Defendants have similarly confined and detained  
juveniles in Lawrence County Jail under such conditions in  
previous years, and defendants will continue to confine  
juveniles under such conditions in the future unless plaintiffs  
are granted the relief requested herein.

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1 VIII. KNOWLEDGE AND INTENT OF DEFENDANTS

2 71. Defendant LLOYD W. BURWELL, as the Juvenile Court  
3 Judge of Lawrence County, is responsible under Ohio Revised Code  
4 §§2151.10, 2151.23, 2151.312, 2151.34, and under Rules 6, 7, 8,  
5 and 9 of the Ohio Rules of Juveniles Procedure, for the  
6 detention, custody, care, placement and release of all children  
7 brought before the juvenile court who are alleged to be juvenile  
8 traffic offenders, delinquents, unruly, abused, neglected, or  
9 dependent. In such capacity, said defendant knew or should have  
10 known of the conditions and circumstances alleged herein and  
11 should have taken steps to correct said conditions and  
12 circumstances. Having failed to do so, said defendant is in  
13 violation of the federal laws and Ohio statutory sections listed  
14 above.

15 72. Defendants MARK A. MALONE, DONALD LAMBERT, and DR.  
16 CARL T. BAKER, as the County Commissioners of Lawrence County,  
17 are responsible under Ohio Revised Code §§2151.10 and 2151.34  
18 for appropriating such sums of money as will provide for the  
19 maintenance and operation of juvenile detention facilities and  
20 placements, and for the care, maintenance, education, and  
21 support of neglected, abused, dependent, unruly and delinquent  
22 children. As such, said defendants knew or should have known of  
23 the conditions and circumstances alleged herein and should have  
24 taken steps to correct said conditions and circumstances.  
25 Having failed to do so, said defendants are in violation of the  
26 federal laws and Ohio statutory sections listed above.

27 73. Defendant DANIEL HIERONIMUS is the sheriff of  
28 Lawrence County, Ohio. As such, said defendant is responsible  
29 under Ohio Revised Code §341.01 for the safety and welfare of  
30 all persons confined in the Lawrence County Jail. As such, said  
31 defendant knew or should have known of the conditions and  
32 circumstances alleged herein and should have taken steps to

1 correct said conditions and circumstances. Having failed to do  
2 so, said defendant is in violation of the federal laws and Ohio  
3 statutory sections listed above.

4 74. As a proximate result of the policies, practices,  
5 acts, and omissions of defendants complained of herein,  
6 plaintiffs have suffered and will continue to suffer serious  
7 physical, psychological, and emotional injuries.

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1 abuses of his judicial authority, subject plaintiffs to denial  
2 of due process of law, guaranteed by the Fourteenth Amendment to  
3 the United States Constitution and the Ohio Constitution;  
4 subject plaintiffs to cruel and unusual punishments, in  
5 violation of the Eighth and Fourteenth Amendments to the United  
6 States Constitution and the Ohio Constitution; violate  
7 plaintiffs' rights to freedom of association and to the free  
8 exercise of religion, guaranteed by the First and Fourteenth  
9 Amendments to the United States Constitution and the Ohio  
10 constitution; violate plaintiffs' right to privacy, guaranteed  
11 by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to  
12 the United States Constitution and the Ohio constitution;  
13 violate plaintiffs' right to receive treatment in the least  
14 restrictive setting and under the least restrictive conditions,  
15 guaranteed by the Fourteenth Amendment to the United States  
16 Constitution and the Ohio Constitution and Ohio statutes;  
17 violate plaintiffs' rights under 42 U.S.C. §1983; and violate  
18 plaintiffs' rights under the Ohio statutory sections cited  
19 herein.

### 20 THIRD CLAIM

21 78. Defendants' policies, practices, acts and omissions  
22 complained of herein, and specifically defendants' secure  
23 confinement and detention in Lawrence County Jail of status  
24 offenders and other juveniles presenting no danger to themselves  
25 or others, violate plaintiffs' rights under the Juvenile Justice  
26 Act, 42 U.S.C. §5633(12); subject plaintiffs to denial of due  
27 process of law, guaranteed by the Fourteenth Amendment to the  
28 United States Constitution and the Ohio Constitution's; subject  
29 plaintiffs to cruel and unusual punishments, in violation of the  
30 Eighth and Fourteenth Amendments to the United States  
31 Constitution and the Ohio Constitution; violate plaintiffs'  
32 rights to freedom of association and to the free exercise of

1 religion, guaranteed by the First and Fourteenth Amendments to  
2 the United States Constitution and the Ohio constitution;  
3 violate plaintiffs' right to privacy, guaranteed by the First,  
4 Fourth, Fifth, Ninth, and Fourteenth Amendments to the United  
5 States Constitution and the Ohio constitution; violate  
6 plaintiffs' right to receive treatment in the least restrictive  
7 setting and under the least restrictive conditions, guaranteed  
8 by the Fourteenth Amendment to the United States Constitution  
9 and the Ohio constitution and Ohio statutes; violate plaintiffs'  
10 rights under the Ohio statutory section cited herein.

11 FOURTH CLAIM

12 79. Defendants' policies, practices, acts and omissions  
13 complained of herein, and specifically defendants' detention and  
14 confinement of juveniles in Lawrence County Jail without  
15 adequate separation from adult offenders, violate plaintiffs'  
16 rights under the Juvenile Justice Act, 42 U.S.C. §5633(13);  
17 subject plaintiffs to denial of due process of law, guaranteed  
18 by the Fourteenth Amendment to the United States Constitution  
19 and the Ohio constitution; subject plaintiffs to cruel and  
20 unusual punishments, in violation of the Eighth and Fourteenth  
21 Amendments to the United States Constitution and the Ohio  
22 Constitution; violate plaintiffs' rights to freedom of  
23 association and to the free exercise of religion, guaranteed by  
24 the First and Fourteenth Amendments to the United States  
25 Constitution and the Ohio constitution; violate plaintiffs'  
26 right to privacy, guaranteed by the First, Fourth, Fifth, Ninth,  
27 and Fourteenth Amendments to the United States Constitution and  
28 the Ohio constitution; violate plaintiffs' right to receive  
29 treatment in the least restrictive setting and under the least  
30 restrictive conditions, guaranteed by the Fourteenth Amendment  
31 to the United States Constitution and the Ohio constitution and  
32 Ohio statutes; violate plaintiffs' rights under 42 U.S.C. §1983;

1 and violate plaintiffs' rights under the Ohio statutory sections  
2 cited herein.

3 FIFTH CLAIM

4 80. Defendants' policies, practices, acts and omissions  
5 complained of herein, and specifically defendants' failure and  
6 refusal to provide and utilize a detention home or other  
7 appropriate community-based alternatives to placement of  
8 juveniles in Lawrence County Jail, violate plaintiffs' rights  
9 under the Juvenile Justice Act, 42 U.S.C. §§5633(12), 5603(1);  
10 subject plaintiffs to denial of due process of law, guaranteed  
11 by the Fourteenth Amendment to the United States Constitution  
12 and the Ohio Constitution; subject plaintiffs to cruel and  
13 unusual punishments, in violation of the Eighth and Fourteenth  
14 Amendments to the United States Constitution and the Ohio  
15 Constitution; violate plaintiffs' rights to freedom of  
16 association and to the free exercise of religion, guaranteed by  
17 the First and Fourteenth Amendments to the United States  
18 Constitution and the Ohio constitution; violate plaintiffs'  
19 right to privacy, guaranteed by the First, Fourth, Fifth, Ninth,  
20 and Fourteenth Amendments to the United States Constitution and  
21 the Ohio constitution; violate plaintiffs' right to receive  
22 treatment in the least restrictive setting and under the least  
23 restrictive conditions, guaranteed by the Fourteenth Amendment  
24 to the United States Constitution, and the Ohio constitution,  
25 and Ohio statutes; violate plaintiffs' rights under 42 U.S.C.  
26 §1983; and violate plaintiffs' rights under the Ohio statutory  
27 sections cited herein.

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SIXTH CLAIM

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2 81. Defendants' policies, practices, acts and omissions  
3 complained of herein, and specifically defendants' knowing  
4 confinement and detention of plaintiffs without plaintiffs'  
5 consent and without proper legal authority, constitute false  
6 imprisonment and subject plaintiffs to denial of due process of  
7 law, guaranteed by the Fourteenth Amendment to the United States  
8 Constitution and the Ohio Constitution, violate plaintiffs'  
9 rights under 42 U.S.C. §1983, and violate plaintiffs' rights  
10 under Ohio statutory law.

11 NO ADEQUATE REMEDY AT LAW

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

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1 (6) violate plaintiffs' right to receive treatment in  
2 the least restrictive setting and under the least restrictive  
3 conditions, guaranteed by the Fourteenth Amendment to the United  
4 States Constitution, the Ohio Constitution, and Ohio statutes;

5 (7) violate plaintiffs' rights under 42 U.S.C. §1983;

6 (8) violate plaintiffs' statutory rights under the  
7 Ohio Revised Code, as indicated above.

8 E. Issue preliminary and permanent injunctions sufficient  
9 to rectify the unconstitutional acts and omissions and statutory  
10 violations alleged herein, as follows:

11 (1) Restraining and prohibiting all defendants from  
12 failing to provide plaintiffs with any of the following during  
13 their period of confinement:

14 (a) regular changes of clean clothing or means  
15 and facilities for laundering plaintiffs' own clothing.

16 (b) basic hygiene supplies, including but not  
17 limited to soap, shampoo, toothpaste, and toothbrushes;

18 (c) regular opportunities exercise and  
19 recreation;

20 (d) regular opportunities to telephone  
21 relatives, ministers, and friends;

22 (e) stamps and stationery for correspondence  
23 with family members, attorneys, and friends;

24 (f) opportunities to visit with family members  
25 each day of the week in a suitable and appropriate visiting  
26 area;

27 (g) a suitable and appropriate area for  
28 conferences with plaintiffs' attorneys;

29 (h) medical and psychological screening when  
30 plaintiffs are taken into custody, and regular medical and  
31 mental health services during plaintiffs' periods of  
32 confinement;

1 (i) personnel training in identifying and  
2 responding to problems of juveniles;

3 (j) an educational program with competent and  
4 trained staff for juveniles of school age;

5 (k) a sufficient number of trained recreational  
6 personnel to provide wholesome and profitable leisure-time  
7 activities;

8 (l) a homelike, non-punitive, neutral atmosphere  
9 and environment.

10 (2) Restraining and prohibiting defendant LLOYD W.  
11 BURWELL from any of the following policies or practices:

12 (a) ordering that any plaintiff confined in the  
13 Lawrence County Jail be denied needed medical care and  
14 medication;

15 (b) ordering that any plaintiff be prohibited  
16 from having visits from parents or relatives.

17 (c) denying any plaintiff a prompt detention  
18 hearing, such hearings to be held not later than seventy-two  
19 hours after plaintiff is taken into custody, or the next court  
20 day, whichever is earlier.

21 (d) threatening, intimidating, or harassing any  
22 plaintiff or his parents or relatives during court proceedings.

23 (e) detaining any plaintiff in the Lawrence  
24 County Jail on the basis of extrajudicial information which has  
25 not been properly received in evidence at a detention hearing;

26 (f) coercing and intimidating any plaintiff into  
27 waiving his constitutional right to counsel;

28 (g) committing any plaintiff to the Lawrence  
29 County Jail when other more appropriate and less restrictive  
30 alternatives are available;

31 (h) threatening to confine and detain any  
32 juvenile in the Lawrence County Jail if such juvenile does not  
leave Lawrence County permanently;



1 (i) threatening to have any plaintiff arrested  
2 without probable cause if he appears in the city of Ironton.

3 (3) Restraining and prohibiting all defendants from  
4 confining or detaining in the Lawrence County Jail or in any  
5 other secure facility any juvenile who is charged with or who  
6 has committed an offense which would not be criminal if  
7 committed by an adult, where such offense does not constitute a  
8 violation of a valid court order.

9 (4) Restraining and prohibiting all defendants from  
10 confining or detaining any juvenile in any detention facility  
11 unless such detention is required to protect the person and  
12 property of others or those of the juvenile, or there is a  
13 danger that the juvenile would abscond or be removed from the  
14 jurisdiction of the court, or the juvenile has no parent,  
15 guardian, or custodian or other person able to provide  
16 supervision and care for him and return him to court when  
17 required;

18 (5) Restraining and prohibiting all defendants from  
19 confining and detaining any juvenile in the Lawrence County Jail  
20 unless the child is alleged to be delinquent, there is no  
21 detention center or other appropriate facility available, the  
22 detention is in a room separate and removed from those for  
23 adults, and public safety and protection of the child or others  
24 reasonably requires such detention;

25 (6) Restraining and prohibiting all defendants from  
26 confining and detaining any juvenile in the Lawrence County Jail  
27 unless such juvenile is completely separated and removed from  
28 contact by sight or sound with adult inmates;

29 (7) Restraining and prohibiting all defendants from  
30 failing to provide and utilize appropriate community-based  
31 alternatives to placement of juveniles in the Lawrence County  
32 Jail.

1 F. Issue preliminary and permanent injunctions  
2 restraining and prohibiting all defendants from transferring any  
3 plaintiff to any other jail or any other facility where there  
4 exist the conditions complained of herein.

5 G. Order the defendant to develop and implement a  
6 comprehensive plan for the correction of the unlawful policies,  
7 practices, acts and omissions complained of herein, and to  
8 submit said plan to the court and to the attorneys for  
9 plaintiffs for review.

10 H. Appoint a Special Master to review and insure  
11 implementation of the plan submitted by defendants and to  
12 protect the rights of plaintiffs during the pendency of this  
13 action.

14 I. Issue a judgment assessing general and special damages  
15 against the defendants for injuries suffered by the named  
16 plaintiff as a proximate result of the policies, practices, acts  
17 and omissions complained of herein, in an amount to be  
18 established by the proof.

19 J. Issue a judgment on behalf of the named plaintiff  
20 assessing punitive damages against the defendants MARK A.  
21 MALONE, DONALD LAMBERT, DR. CARL T. BAKER, and DANIEL HIERONIMUS  
22 for the policies, practices, acts and omissions complained of  
23 herein, in the amount of \$100,000 against each of said  
24 defendants.

25 K. Retain jurisdiction over defendants and each of them  
26 until such time as the Court is satisfied that their unlawful  
27 policies, practices, acts and omissions complained of herein no  
28 longer exist and will not recur.

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