

STEPHEN L. PEVAR  
American Civil Liberties Union Foundation  
2074 Park Street  
Hartford, Connecticut 06106  
(860) 570-9830  
*Pro Hac Vice* Application Pending

LEA C. COOPER  
ISB # 3505  
American Civil Liberties Union of Idaho  
P.O. Box 1897  
Boise, Idaho 83701  
(208) 344-9750 ext. 206

DEAN JOSEPH MILLER  
ISB # 1968  
Cooperating Attorney, American Civil Liberties  
Union of Idaho Foundation  
McDevitt & Miller LLP  
P.O. Box 2564  
Boise, ID 83701  
(208) 343-7500

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

AMANDA DAVIS, NIKKI PRICE, ROCHELLE  
SAUCEDO, JEFFREY GROSS, PARNELL  
WILLIAMS, and ERIC COUCH, individually and  
on behalf of all other persons similarly situated,

Plaintiffs,

vs.

CANYON COUNTY, IDAHO, by and through the  
members of its Board of County Commissioners,  
MATTHEW BEEBE, DAVID FERDINAND, and  
STEVEN RULE, each sued in his official capacity;  
and CHRIS SMITH, in his official capacity as  
Sheriff of Canyon County.

Defendants.

Case No.

CLASS ACTION COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF

## **INTRODUCTION**

The six named plaintiffs file this action on their own behalf and on behalf of a class of all other persons incarcerated, now or in the future, in the Canyon County Jail in Caldwell, Idaho. Plaintiffs seek declaratory and injunctive relief from conditions of confinement that are indecent, cruel, and inhumane. For years now, as defendants' own reports show and as repeated inspections from the Idaho Sheriff's Association detail, defendants have been incarcerating far more persons in the Dale G. Haile Detention Center--the largest of the three structures comprising the Canyon County Jail--than it was designed to hold, such that numerous prisoners must sleep on the floor. On March 23, 2007, Sheriff Chris Smith sent a letter to the Canyon County Prosecuting Attorney regarding this situation, stating: "As you are aware, this office is faced with a dilemma of huge magnitude. The Dale G. Haile Detention Center is continuously overcrowded. The facility has a rated capacity of 310 inmates, and as of this morning, the population was 418." The Jail also suffers from inadequate ventilation and temperature control; inadequate fire protection; inadequate recreation; inadequate plumbing; and inadequate medical care; and the Jail is unsanitary and filthy. Relief is sought pursuant to the Eighth and Fourteenth Amendments to the U.S. Constitution.

## **JURISDICTION AND VENUE**

1. This action arises under the Eighth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983. The Court therefore has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1343(a)(3) and (4). Venue is properly found in this District pursuant to 28 U.S.C. §1391(b), in that all parties reside, and plaintiffs' claims arose, within the District.

## **PLAINTIFFS**

2. Plaintiffs Amanda Davis, Nikki Price, Rochelle Saucedo, Jeffrey Gross, Parnell Williams, and Eric Couch are adult citizens of the United States currently incarcerated in the Canyon County Jail.

## **THE PLAINTIFF CLASS**

3. This action is brought on behalf of the named plaintiffs and on behalf of all other persons incarcerated in the Canyon County Jail, or who may become so incarcerated in the future. Class certification is sought pursuant to F.R.Civ.P. 23(a), (b)(1) and (b)(2). Class certification is appropriate because the members of the class are so numerous that joinder of all persons is impracticable; there are questions of fact and law common to the class; the representative parties' claims are typical of the claims of the class; and the named plaintiffs will fairly and adequately represent the interests of the class. In addition, the defendants have acted or refused to act on grounds generally applicable to all members of the class, thereby making appropriate final declaratory and injunctive relief to the class as a whole, and the questions of law or fact common to members of the class predominate over any questions affecting individual members.

## **DEFENDANTS**

4. Canyon County, Idaho, is a county organized and existing pursuant to Title 31, Idaho Code. The County is amenable to suit through its Board of County Commissioners, whose members are defendants herein--Matthew Beebe, David Ferdinand, and Steven Rule--each of whom is sued in his official capacity.<sup>1</sup> The Board of County Commissioners is charged under Idaho law with the responsibility to maintain a safe,

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<sup>1</sup>Plaintiffs are aware that Commissioner Beebe is leaving office. As soon as his successor, Kathy Alder, takes office, she will *automatically* be substituted as a defendant in this litigation by operation of law. See F.R.Civ.P. 25(d)(1). See also *Kentucky v. Graham*, 473 U.S. 159, 166 n.11 (1985).

adequate, and secure jail. *See* Idaho Code § 20-622. Idaho Code § 20-612 states that the board must "furnish all persons committed to the county jail with necessary food, clothing and bedding, and medical care" and further provides that the board "is authorized to pay" for these provisions from the county treasury.

5. Defendant Chris Smith is the duly elected Sheriff of Canyon County, Idaho, and as such has a duty under state and federal law to adequately administer the county jail and provide for the proper and humane care, custody, and control of the named plaintiffs. Defendant Smith is sued in his official capacity.

### **STATEMENT OF FACTS**

6. The Canyon County Jail in Caldwell, Idaho, consists of three buildings commonly called the Annex, the Dale G. Haile Detention Center, and the Work Release Center.

7. The Annex, built in 1948, was abandoned in 1993 when the Dale G. Haile Detention Center was opened. However, due to overcrowding in the Detention Center, the Annex was somewhat refurbished and reopened in 2001. Due to its many violations of Idaho Jail Standards, the Annex was closed in 2006. In March 2007, the Annex was reopened after receiving some limited refurbishing and now houses approximately 70 prisoners. Although Sheriff Smith believes that the Annex should be closed permanently, the county currently uses this structure to house segregation prisoners on one floor and prisoner workers and minimum security prisoners on two other floors.

8. The Dale G. Haile Detention Center was built in 1993 and houses the majority of the Canyon County prisoners, both male and female, on its two floors. The Detention

Center has four pods: Pod 1 contains housing units A, B, C, and D; Pod 2 contains units E, F, and G; Pod 3 contains units H, J, K, and L; Pod 4 contains units M and N.

9. Originally, all bunk beds in the Detention Center were double bunks. Over the years, however, the defendants converted many of these double bunks into triple bunks. The Detention Center now contains some 488 beds.

10. Yet even with these 488 beds crammed into the Detention Center, frequently there are more prisoners than beds, and the excess prisoners must sleep on the floor on a thin mattress. In 2008, for instance, class plaintiff Kathaleena Bowen spent more than 100 days, and named plaintiff Amanda Davis spent nearly three weeks, sleeping on the floor due to lack of bed space.

11. Each unit in each pod in the Detention Center has a common area with eating tables and benches on one side, and a partitioned area on the other side with shower stalls, sinks, and toilets. The Detention Center also contains on its first floor a booking and holding area that includes cells for medical isolation and suicide watch prisoners, and a cell for prisoners who arrive at the jail intoxicated.

12. In 2006, a 216-bed Work Release Center for male prisoners was opened. Due to overcrowding in the Detention Center, the Work Release Center houses some general population prisoners as well as prisoners on work release.

**Overall conditions of the Dale G. Haile Detention Center**

13. Yearly inspection reports issued by the Idaho Sheriff's Association (ISA) detail the substandard, filthy, and unhealthy conditions of confinement in the Dale G. Haile Detention Center. The root cause of these deplorable conditions is overcrowding. Overcrowding produces a "domino effect," taxing all other systems--ventilation,

plumbing, staffing, laundry, recreation, etc.--beyond the breaking point. The 2007 ISA report, issued August 28, 2007, reaches that conclusion. The ISA determined that "overcrowding would seem to be the inherent problem that creates security issues, tasks the staff and the physical plant [and] makes it very difficult to keep up maintenance, cleaning and refurbishment of the facility." The report noted that persistent overcrowding, including the "flooring and multi-bunking" of prisoners, is "the basis for the liability that the County shoulders and an ongoing reason for concern." The ISA's 2008 inspection report, issued on June 11, 2008, reiterated that conclusion. The report found that cells in the Detention Center "were considerably overcrowded" and "were very humid and smelled." Inspectors found "mold, scaling of paint, and fixtures that were not working or needed cleaning and refurbishment in numerous cells." The inspection concluded that the "ventilation systems cannot move enough air" for the population, and that overcrowded conditions throughout the Detention Center makes it "impossible to do routine maintenance, painting and repairs, . . . [and] increase[s] the likelihood of mold and other airborne problems." The combined effect of these substandard conditions, the ISA concluded, compromises the health and safety of staff and prisoner alike. This is not to say that reducing the jail's population would be a panacea--because it would not--but it certainly would alleviate some problems.

### **1. Overcrowding**

14. The Sheriff, the County Commissioners, and the ISA agree that the Dale G. Haile Detention Center is overcrowded. The Center is overcrowded in two respects. First, it contains too many beds given the limited living space in the housing units.

Second, the prisoner population of the Detention Center often exceeds the (already excessive) number of beds.

15. The Idaho Sheriff's Association, comprised of correctional and law enforcement officers from around the state, has promulgated a set of standards to govern the operation and administration of local jails. One set of standards, adopted from the American Correctional Association, is used to determine the number of beds that may safely and securely be placed in a given space. A recent study conducted by Sheriff Smith found that in order to comply with those ISA standards, at least *100 beds* must be removed from the Detention Center.

16. Frequently, prisoners must sleep on the floor due to lack of bed space, despite the fact that the Detention Center has 100 more beds than it should have. During the past twelve months, named plaintiffs Amanda Davis slept on the floor nearly three weeks; Nikky Price two weeks; and Parnell Williams two weeks. In addition, class plaintiff Kathaleena Bowen slept on the floor more than 100 days. The Detention Center is chronically overcrowded.

17. As a result of overcrowding, the Detention Center is not able to adequately classify prisoners. Thus, prisoners who should be kept apart for various reasons, such as age, crime, their predatory nature or their predilection for violence, often must be housed together. This increases the risk of violence, intimidation, and strong-arming. Overcrowding also contributes to all of the other inadequacies discussed below.

## **2. Inadequate ventilation**

18. Ventilation in the Detention Center is inadequate, resulting in a build-up of stale and foul air, thereby increasing the risk of air-borne disease and causing headaches

and other physical and mental ailments. The ISA's 2008 inspection report, as noted above, found that the Detention Center's ventilation system "cannot move enough air" for the population, and that cells were "very humid and smelled." The Center's ventilation system was not designed to accommodate the size of this prisoner population, and it is simply unable to meet their need for fresh and clean air.

19. Numerous prisoners, including plaintiffs Eric Couch and Rochelle Saucedo, report suffering frequent headaches that they attribute in part to inadequate ventilation.

20. It is well known that inadequate ventilation contributes to the spread of mold, a problem that plagues the Detention Center, as discussed below.

### **3. Inadequate sanitation**

21. Unsanitary conditions exist throughout the Dale G. Haile Detention Center, as well as the Annex and Work Release Center. Mold and soap scum exist in virtually every shower area. In some housing units, the humidity is so high and ventilation so poor that water droplets form on ceilings, and the Sheriff has installed plastic bags to catch the falling water and paint flakes. Mold and mildew are visible on shower stalls, walls, and ceilings. Concrete is deteriorating due to water damage.

22. There is no adequate or routine cleaning of shower and toilet facilities, and as near as plaintiffs can discern, there is no housekeeping plan to prevent the build-up of filth.

23. Several weeks ago, class plaintiff Kathaleena Bowen, unable to stand the stench emanating from the drain in the shower area in her housing unit, obtained the help of Deputy Atkinson in removing the drain cover. Seeing the filth and gunk that filled the drain, both of them vomited. They then cleaned the drain.



24. Recently, named plaintiff Eric Couch and class plaintiff Troy Fenster were given some cleaning supplies by a deputy and told to remove the mold in G-Unit. However, the mold was so encrusted on walls, ceilings, and floors, and the materials they were given were so inadequate, that their efforts barely made a difference, and three days later the mold was just as evident. (Moreover, these men were not issued protective clothing, eyewear, or masks, despite the toxic nature of black mold spores.)

25. Named plaintiff Rochelle Saucedo states that her housing unit has been issued bleach to clean mold only twice in the past eight months.

26. Named plaintiff Nikki Price spent ten days in a cell in the Annex a few weeks ago. The cell to which she was brought had blood caked on the walls, which Ms. Price scrubbed off. The cell also had water continually oozing down one wall. When Ms. Price asked a deputy for a rag to dry the resulting puddle on the floor, she was told to use her own towel, the one intended for her showering and washing.

27. The jail issues each prisoner one towel twice a week. Every named plaintiff will testify that the towels they receive smell of body odor. Ms. Saucedo believes, based on what she has seen and heard, that workers are overstuffing the washing machines, preventing the towels from being cleaned properly.

28. The jail issues each prisoner an orange jumpsuit twice a week, meaning that prisoners wear the same clothing three and then four days in a row. This results in an accumulation of body odor in the clothing, which permeates the air. Jumpsuits become so soiled and smelly that they are difficult to get clean and fresh-smelling.

29. In addition to the presence of mold throughout the Detention Center, there is a constant flaking of paint in several housing units, including the units occupied by the female prisoners, as plaintiffs Davis, Price, and Saucedo will attest.

30. Numerous prisoners, including named plaintiff Eric Couch and class plaintiff John Jankowski, have been suffering for the past several weeks from a sore throat, a sinus infection, and headaches that they attribute in part to the unsanitary conditions of the jail.

#### **4. Inadequate plumbing**

31. There is no adequate or routine maintenance of plumbing systems, including shower and toilet facilities, and the jail is beset with plumbing problems. Due to overcrowded conditions, showers and toilets in the Detention Center receive far more use than originally designed, and they frequently break down. Many of these broken facilities have remained unusable for weeks or months at a time. For instance, G-Unit contains 92 beds. (According to the Sheriff's recent study, it should have only 66 beds.) Named plaintiff Eric Couch and class plaintiffs John Jankowski and Troy Fenster reside in G-Unit. According to them, two of the nine toilets in G-Unit have been inoperable for three months, and five of the Unit's ten showers have been inoperable for several weeks. Prisoners have repeatedly notified staff of these deficiencies, to no avail.

32. Moreover, showers throughout the Detention Center have two buttons that must be pushed for water, one for hot water and the other for cold. They do not operate simultaneously, and prisoners must decide whether to be doused with hot or cold water while showering. Sometimes the hot water is so hot it scalds the skin instantly. Mr. Couch is one of the prisoners who has been scalded during a shower.

33. As a result of inadequate plumbing, standing water exists in drains and on some floors, creating a health and safety hazard.

**5. Inadequate temperature control**

34. All six named plaintiffs will testify that the housing unit in which they currently reside in the Detention Center is very cold, especially at night. Parnell Williams, for instance, will testify that while he was in F-Unit, it was so cold that his hands turned blue. Mr. Couch will testify that the temperature in his housing unit (G-Unit) is so low that he constantly feels cold. Plaintiff Amanda Davis will testify that she and other female prisoners often ask deputies to raise the air temperature, only to be told that there is nothing the deputies can do about it.

35. Those prisoners who had been incarcerated in the Detention Center during summer months report that the jail was often uncomfortably hot, and prisoners would sweat even when they were inactive.

36. The constantly cold temperatures cause some prisoners to get sick and to stay sick. Plaintiff Eric Couch developed a cold soon after his arrival at the jail and it has not abated for the entire time he has been there, some five weeks. Mr. Couch attributes the green mucous he coughs up, his raspy voice, and his flu-like symptoms partly to the frigid temperature of his housing unit.

**6. Inadequate bedding**

37. Bedding in the Jail falls below acceptable standards, especially given the cold temperatures in the housing units. Defendants issue one very thin mattress per prisoner to be placed over a metal bunk bed, a mattress cover, a sheet, and two thin blankets.

38. Pillows are not issued to prisoners.

39. The blankets issued to prisoners are not sufficient to keep them warm during the winter months. All six named plaintiffs will testify that they are uncomfortably cold at night. Defendants maintain a rigid policy of not issuing a third blanket even when prisoners request one from a deputy or through the medical department. On November 20, 2008, for instance, named plaintiff Nikki Price submitted the following written request to the medical department of the Detention Center: "Can I please get an extra blanket. Thanks." The following day she received this written response: "Only 2 blankets are given." The medical department did not ask why Ms. Price wanted another blanket, as it apparently made no difference.

40. Most or all of the mattresses in the Detention Center are cracked, and many have large holes that expose their "stuffing." This prevents these mattresses from being properly cleaned or sanitized, and indeed, the defendants do not even try to clean or sanitize them. When a prisoner leaves the jail, his/her mattress is stacked on a pile and reissued to an arriving prisoner. Plaintiff Rochelle Saucedo has stacked nearly 100 mattresses during the eight months of her incarceration, and not one of them was cleaned or sanitized prior to being reissued.

41. Prisoners are not permitted to have a second mattress. Plaintiff Amanda Davis was nearly five months pregnant when she entered the Detention Center. No bed was empty, so a deputy assigned her to a place on the cold cement floor, and she was issued one thin mattress. She requested a second mattress but was refused. Even the jail's medical department refused to authorize the issuance of a second mattress, informing Ms. Davis that pregnant women qualify for a second mattress only when they enter their third trimester. Ms. Davis will testify that sleeping on one thin mattress

caused bruising on her hips and made prolonged sleep impossible. Plaintiffs Davis, Saucedo, and Price will testify that at the time Ms. Davis was denied a second mattress, the jail had dozens of additional mattresses piled in the store room. Plaintiff Saucedo will also testify that she observed another pregnant prisoner spend many days on the floor and was denied a second mattress even though she was experiencing back pain and had submitted medical requests for an additional mattress.

42. Named plaintiffs Jeffrey Gross and Rochelle Saucedo will testify that after a period of time sleeping on a metal slab with one thin mattress and no pillow, they developed soreness in their back and neck, which continues to this day. Plaintiff Eric Couch, who has asthma, was told by his doctor that he should sleep with his head raised, something that Mr. Couch is unable to do in the Detention Center, not having a pillow.

## **7. Inadequate recreation**

43. The Detention Center has no indoor recreation facility.

44. The Detention Center has no exercise equipment located either indoor or outdoor.

45. The Detention Center has two outdoor recreation yards. However, deputies rarely permit prisoners to use them. There are no scheduled times of recreation, and access to the yard is wholly within the discretion of the deputy on duty. Prisoners in G-Unit will testify that during the past three months, they were offered access to the recreation yard on only two occasions. Plaintiff Couch, who has been incarcerated in G-Unit since December 11, 2008, has been offered access to the recreation yard only one time. Prisoners often ask deputies to be allowed access to the yard but such requests are routinely denied. Plaintiff Nikki Price will testify that the same is true for access to the

recreation yard for female prisoners, although it appears that deputies in their housing unit allow them slightly more access than the deputies in G-Unit allow male prisoners.

46. During the winter months when it is cold outside, the Detention Center only has a few zippered sweaters available for prisoner use in the recreation yard. In December 2008 during the one time that a deputy offered outdoor recreation to G-Unit, some thirteen prisoners went outdoors. They were given only five sweaters between them, and the zippers of three of the five were inoperable. The thirteen prisoners shared the sweaters, handing them back and forth, while they walked around the yard.

47. There is no exercise equipment in the outdoor recreation yard. A few months ago when some prisoners in G-Unit fashioned a ball from a rolled-up pair of socks and were using it in the recreation yard, the deputy on duty ordered them to stop.

48. The lack of equipment for aerobic exercise and for large and small muscle activity causes unnecessary pain and suffering, muscle atrophy, and lethargy. It results in enforced idleness. Plaintiff Couch, who used to exercise regularly and play football, has noticed a decided drop in his physical health since being confined in the Detention Center. Plaintiff Williams will testify that his doctor recommended that he exercise regularly due to a medical condition, but the Detention Center offers no realistic opportunity for him to do so.

49. At least one of the outdoor recreation yards is used on occasion to house K-9 dogs and they urinate and defecate in the yard.

## **8. Inadequate staffing**

50. For the past three years, Sheriff Smith has requested funding from the County Commissioners to hire additional jail staff. To plaintiffs' knowledge, the Commissioners

have denied all three requests. The jail is inadequately staffed, particularly given its overcrowded conditions. Not only is there an insufficient number of deputies on duty many shifts, but there is an excessive use of overtime, and deputies often are short-tempered and tired. This creates a dangerous condition for staff and prisoner alike. Moreover, the Detention Center and the Annex are staff intensive facilities, having linear designs and many "blind spots" that officers must inspect visually on a regular basis.

#### **9. Inadequate fire protecton**

51. The Detention Center is a fire trap. The fire alarm system has been inoperable for at least two years, and many of the Center's smoke detectors do not work. An inspection of the fire alarm system in January 2008 found "3 ground faults at the time of inspection, which will hamper system performance; as well as over thirty troubles. System needs further service . . . which may include panel and/or device replacement along with extensive rewiring and programming."

52. Only in recent weeks have the defendants begun to install an adequate fire alarm system. According to Jail personnel, the system will be operational in early February. Defendants' failure to install this system--or any other adequate system--sooner exhibits deliberate indifference to the safety of prisoners and staff alike.

53. To plaintiffs' knowledge, defendants have not had a fire drill in the Detention Center in years, not even one in which prisoners remain in their cells in a mock release.

#### **10. Arbitrary rule enforcement**

54. If the Jail has an Inmate Handbook, it is hidden from prisoner view. Prisoners will testify that either they or other prisoners in their presence have requested to see an Inmate Handbook, and it was not produced.

55. As a result, prisoners do not know what conduct is proscribed or what punishments can befall them for engaging in any such conduct. As near as plaintiffs can discern, deputies have virtually free reign in setting rules and enforcing them.

56. Plaintiff Nikki Price will testify, for instance, that she was given forty days in segregation for engaging in an activity she didn't know was a rule violation, and she did not know that this activity could result in such a severe punishment. Plaintiff Jeffrey Gross will testify that ever since he began writing to the ACLU a few weeks ago, a certain deputy has subjected him to constant physical and cell searches, and that this deputy appears to have unbridled authority to commit those acts.

#### **11. Failure to ensure the provision of special meals**

57. Plaintiff Amanda Davis will testify that she has repeatedly notified Jail personnel that she has a severe allergic reaction to onions, such that her throat will close and she will have difficulty breathing and swallowing. Yet on every occasion in which onions are served as part of the prisoner meal, deputies have brought her that same meal. Whether other prisoners who need special medical or religious diets experience the same difficulty as Ms. Davis is currently unknown to counsel for plaintiffs.

#### **12. Inadequate medical care**

58. Several prisoners report positive experiences with the Jail's medical department, but other prisoners report negative experiences. Those with negative experiences include the two pregnant prisoners, one of whom is Plaintiff Davis, who were denied a second mattress. In addition, Plaintiff Price will testify as to the lack of adequate medical care she experienced.



59. An overall problem faced by the prisoner class is that the Jail charges each prisoner seen by the medical department a fee of \$10. (Prisoners who do not have \$10 on their books are given a "negative" balance, and the money is seized as soon as it is placed on the prisoner's account.) Plaintiffs will testify that \$10 is a lot of money to them, and that this charge has resulted in their not requesting needed medical attention. As a result of the \$10 charge, prisoners often choose to remain sick and contagious in their housing units. Granted, the \$10 fee may discourage the false reporting of medical claims but it has the immediate and disastrous effect of placing the entire prisoner population at unnecessary risk of infection and disease, and discourages prisoners from seeking necessary treatment.

**Defendants' deliberate indifference**

60. Each defendant has made statements acknowledging that the Canyon County Jail is overcrowded and is beset with health and safety problems. It is well known that human beings confined in a sordid environment like the one that exists in the Dale G. Haile Detention Center will suffer predictable physical and mental illness over time, including disease, aches, pains, depression, listlessness, apathy, sleeplessness, anxiety, and tension, and will be at unnecessary risk of violent assault from persons whose existing problems are exacerbated by conditions of confinement of this nature.

61. Defendants have it within their power--and they have it within their duty--to take all reasonable steps to prevent the suffering that they know is occurring on a daily basis in the Dale G. Haile Detention Center. Their failure to take those steps reflects deliberate indifference to the health and safety of the prisoner class and subject the plaintiff class to cruel and unusual punishment. Unless and until this Court intervenes

and orders the cessation of these intolerable and dangerous condition, plaintiffs will continue to suffer unnecessary harm. Plaintiffs have no adequate remedy at law.

**Very recent improvements to the Jail**

62. During the past three months, there have been numerous letters and telephone calls between prisoners of the Canyon County Jail and the American Civil Liberties Union (ACLU), far more than in the past. On November 13, 2008, the *Idaho Press-Tribune* reported that the ACLU was considering filing suit against Canyon County in order to improve conditions in the county jail. Within the past 60 days, defendants have suddenly made a concerted effort to improve a few conditions in the Dale G. Haile Detention Center. For instance, some (but not all) of the housing units were painted, and work commenced on a new fire alarm system.

63. These efforts are commendable but they are too little and too late to avoid the need for judicial scrutiny. In the first place, most of the inadequacies described above will remain unabated. Second, based on past history, it must be presumed that defendants' remedial efforts are temporary and transitory. As the Supreme Court stated in a related context, "[i]t is the duty of the courts to beware of efforts to defeat injunctive relief by protestations of repentance and reform, especially when abandonment seems timed to anticipate suit, and there is a probability of recurrence." United States v. Oregon State Medical Society, 343 U.S. 326, 333 (1952). *See also Battle v. Anderson*, 708 F.2d 1523, 1538 (10<sup>th</sup> Cir. 1983) (holding that a federal court must issue injunctive relief against prison officials, despite their recent remedial efforts, "until it can say with assurance that the unconstitutional practices have been discontinued and that there is no reasonable expectation that the unconstitutional practices will recur."

### **FIRST CLAIM FOR RELIEF**

64. Some of the prisoners incarcerated at the Canyon County Jail are pretrial detainees, that is, they have not been convicted of any offense and the only reason they are incarcerated is because they are unable to post bond. For reasons set forth above, Plaintiffs allege that the actions of defendants, separately and in combination, acting under color of state law, has caused members of the plaintiff class not yet convicted of any crime to suffer punishment without due process of law in violation of rights secured to them under the Fourteenth Amendment to the Constitution of the United States. Relief is sought pursuant to 42 U.S.C. § 1983.

### **SECOND CLAIM FOR RELIEF**

65. In addition to pretrial detainees, some members of the plaintiff class have been convicted of a crime and are incarcerated as a result, either as a county prisoner or as a state prisoner. For reasons set forth above, the actions of defendants, separately and in combination, in incarcerating members of the plaintiff class who have been convicted of crimes under the conditions described herein, subjects them to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States. Relief is sought pursuant to 42 U.S.C. § 1983.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs pray to this Court as follows:

1. Assume jurisdiction over this matter;
2. Certify this action as a class action pursuant to Rule 23(a), (b)(1) and (b)(2), F.R.Civ.P.;

3. Issue a declaratory judgment that defendants' actions violate rights secured to plaintiffs under the Eighth and Fourteenth Amendments to the United States Constitution;
4. Issue injunctive relief pursuant to Rule 65 F.R.Civ.P., enjoining defendants and all persons in concert with them, and their successors in office, from incarcerating plaintiffs in the Canyon County Jail in a manner that violates their federal rights; and
5. Grant plaintiffs their costs and attorneys' fees in this matter, and such other and further relief as to the Court may seem just and proper.

DATED this 9<sup>th</sup> day of January, 2009.

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Dean J. Miller  
Stephen L. Pevar  
Lea C. Cooper

Attorneys for the Plaintiffs