IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ALDRICH H. AMES, Reg. No. 40087-083, P.O. Box 3000, White Deer, PA 17887, for himself and on behalf of his correspondents, telephone contacts, interviewers and visitors,

Plaintiff,

v.

JOHN DEUTCH, individually, and in his official capacity as Director of the Central Intelligence Agency;

R. JAMES WOOLSEY, individually, and in his former official capacity as Director of the Central Intelligence Agency;

WILLIAM STUDEMAN, individually, and in his former official capacity as Deputy and Acting Director of the Central Intelligence Agency;

GEORGE TENET, individually, and in his official capacity formerly as the President's Special Assistant for Intelligence Programs and currently as Deputy Director of Central Intelligence;

FRED MANGET, individually, and in his official capacity as an Associate General Counsel of the Central Intelligence Agency;

JAMES ZIRKLE, individually, and in his official capacity as an Associate General Counsel of the Central Intelligence Agency;

RICHARD HAVER, individually, and in his official capacity as Chief of the Damage Assessment Group of the Intelligence Community Staff;

COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION

Civil Action No._____

3:CV-96-1265

FILED
HARRISBURG
JUL - 8 1996
PER _____
DEPUTY CLERK

LT. CLEMENS, individually, and in his official capacity as Supervisor of the Special Housing Unit at USP Allenwood;

LT. NOONE, individually, and in his official capacity as Supervisor of the Special Housing Unit at USP Allenwood;

LT. SANTOS, individually, and in his official capacity as Supervisor of the Special Housing Unit at USP Allenwood;

LT. BELL, individually, and in his official capacity as Supervisor of the Special Housing Unit at USP Allenwood;

THE CENTRAL INTELLIGENCE AGENCY;

and

THE FEDERAL BUREAU OF PRISONS,

Defendants.

I. PRELIMINARY STATEMENT

1. This is a civil rights, Bivens-type class action, brought pursuant to 42 U.S.C. §1983 against defendants for declaratory and injunctive relief and compensatory and exemplary damages for violations committed by them, acting under color of federal law, of the constitutional rights of plaintiff and members of the class. The plaintiff alleges that since about June 1994 and continuing to the present, defendants conspired to devise and impose upon plaintiff pretextually, without penological purposes, a unique prison regime for the deliberate purposes of extra-judicial punishment and of depriving him and members of the class

CAROL DAVIS, individually, and in her official capacity as a contract employee of the Central Intelligence Agency;

HELEN FAHEY, individually, and in her official capacity as United States Attorney for the Eastern District of Virginia;

MARK HULKOWER, individually, and in his former official capacity as an Assistant United States Attorney for the Eastern District of Virginia;

JOANNE HARRIS, individually, and in her former official capacity as Assistant Attorney General of the United States;

KATHLEEN M. HAWK, individually, and in her official capacity as Director of the Federal Bureau of Prisons;

WALLACE CHENEY, individually, and in his official capacity as Associate Director and General Counsel of the Federal Bureau of Prisons;

FRANK ORTIZ, individually, and in his official capacity as Director of the North East Region of the Federal Bureau of Prisons;

J.T. HOLLAND, individually, and in his official capacity as Warden of the United States Penitentiary, Allenwood, Pennsylvania;

RONALD HAMM, individually, and in his official capacity as Executive Assistant and Public Information Officer of USP Allenwood;

PATRICIA RODMAN, individually, and in her official capacity as Case Manager Coordinator of USP Allenwood;

LT. RADEBAUGH, individually, and in his official capacity as Supervisor of the Special Housing Unit at USP Allenwood;

of rights protected by the First, Fourth, Fifth, Sixth, Eighth and Fourteen Amendments to the United Stated Constitution. As a result of defendants' purposeful and deliberate actions, plaintiff and members of the class have suffered physical, mental and emotional pain and injuries and the loss of their constitutional rights.

II. JURISDICTION AND VENUE

2. Jurisdiction and venue are appropriate in this Court pursuant to 28 U.S.C. §§1331, 1391(b) and 1391(e). Defendants are federal agencies, officers and employees. A substantial part of the events giving rise to this claim occurred in the Middle District of Pennsylvania where plaintiff is incarcerated at USP Allenwood.

III. PARTIES

3. Plaintiff Aldrich H. Ames is a federal prisoner, incarcerated at USP Allenwood in the Middle District of Pennsylvania since August 11, 1994.

4. John Deutch is the Director of Central Intelligence (DCI) and the head of the Central Intelligence Agency (CIA) and the Intelligence Community Staff, and is responsible for the management and supervision of their activities and employees.

5. R. James Woolsey was the DCI and head of the CIA until December 1994.

6. William Studeman was Deputy DCI until about April 1995. He served as Acting DCI between about December 1994 until April 1995.

7. George Tenet was Special Assistant to the President for Intelligence Programs until about December 1994 and is currently Deputy DCI.

8. Fred Manget is an Associate General Counsel of the CIA.

9. James Zirkle is an Associate General Counsel of the CIA.

10. Richard Haver is chief of the DCI's Damage Assessment Group in the Intelligence Community Staff.

11. Carol Davis is a contract employee of the CIA.

12. Helen Fahey is United States Attorney for the Eastern District of Virginia at Alexandria, Virginia.

13. Mark Hulkower was an Assistant U.S. Attorney for the Eastern District of Virginia until some time in 1995.

14. Joanne Harris was an Assistant Attorney General of the U.S. Department of Justice.

15. Kathleen Hawk is Director of the Bureau of Prisons (BOP) and is responsible for the direction and management of the federal prison system and its federal prisoners.

16. Wallace Cheney is Associate Director and General Counsel of

the BOP.

17. Frank Ortiz is Director of the North East Region of the BOP and is responsible for aspects of the supervision and management of federal prisons and prisoners in that region, including USP Allenwood.

18. J.T. Holland is Warden of USP Allenwood and is responsible for the supervision and management of the prison and its inmates.

19. Ronald Hamm is Executive Assistant to the Warden and is USP Allenwood's Public Information Officer.

20. Patricia Rodman is Case Manager Coordinator at USP Allenwood and is plaintiff's Case Manager.

21. Lt. Radebaugh was supervisor of USP Allenwood's Special Housing Unit (SHU) in August 1994.

22. Lt. Clemens was supervisor of USP Allenwood's SHU between about September 1994 and March 1995.

23. Lt. Noone was supervisor of USP Allenwood's SHU between about March 1995 and October 1995.

24. Lt. Santos was supervisor of USP Allenwood's SHJ from about October 1995 until March 1996.

25. Lt. Bell was supervisor of USP Allenwood's SHU between March and the end of April 1996.

26. Defendants acted by agreement, in conspiracy and in concert with each other, their subordinates and other federal officials, under color of federal law, at all times relevant to this complaint.

IV. FACTUAL ALLEGATIONS

27. Plaintiff, serving a life sentence for espionage, was confined in the Special Housing Unit (SHU) at USP Allenwood in Administrative Detention as a newly-arrived inmate awaiting classification between August 11, 1994 and April 25, 1996.

Designation to USP Allenwood

28. In his plea agreement of April 25, 1994, negotiated between plaintiff and defendants Fahey and Hulkower, the government agreed not to oppose plaintiff's request to the sentencing court that it recommend to the Bureau of Prisons (BOP) that he be designated to USP Allenwood. The government did not object, the judge so recommended, and in May 1994 the BOP Central Office, taking the court's recommendation into account, designated plaintiff to USP Allenwood and established his Security Designation as "High" and his provisional Custody Classification as "In", levels appropriate for Allenwood and placement in its general population.

29. The purpose of the designation and classification of federal prisoners, according to BOP Program Statement 5100, is to place them "in the least restrictive environment which would

provide appropriate control." The practice of classifying federal prisoners is mandated by 18 U.S.C. §4081 and BOP policy requires its staff to use the specific guidelines of P.S. 5100 in making classification decisions. Plaintiff's security designation and custody classification was consistent with the law and BOP policies.

30. Although plaintiff was designated to Allenwood in May 1994, he remained at the Alexandria City Detention Center (ADC) to facilitate access to him by government investigators debriefing him in accordance with his plea agreement.

Origin and Purposes of Defendants' Conspiracy

31. At his sentencing on April 28, 1994 and in several press interviews between May and July, plaintiff criticized aspects of the government's national security and intelligence policies and its prosecution of his co-defendant spouse. Plaintiff's public statements were given considerable attention by the press, public and the Congress.

32. In July 1994, defendants Harris and Woolsey were strongly criticized in hearings before the Senate and House intelligence committees for permitting press access to plaintiff while denying it to Congressional investigators.

33. In June and July 1994, defendants Woolsey, Studeman, Tenet and Harris concluded that plaintiff's public statements and the attention given them had contributed to the widespread press,

public and Congressional questioning of the government, especially of the conduct of Mr. Woolsey and CIA management. Defendant Woolsey, in a speech made in July, expressed anger at plaintiff's public statements and his indignation at the press' interest in reporting and discussing them. These and other defendants and government officials also formed the belief that plaintiff's cooperation with the government was unsatisfactory. Together with their anger and indignation over his criminal offenses, they concluded that the government had made a bad bargain in plaintiff's plea agreement, in that plaintiff's consent had not been sought or obtained to special, punitive conditions of confinement, and that the government's control over his private and public communications was insufficient to monitor, deter and minimize effects which they considered embarrassing to themselves and the CIA and harmful to the government's interests. Accordingly, defendants resolved to devise measures which would impose fuller government controls and restrictions on his speech and harsher, more punitive conditions of confinement which they believed appropriate to his offense. To justify and cover their true purposes, they decided to employ several pretexts, including misrepresenting the plea agreement, and the assertion of prison security, law enforcement and national security concerns.

34. To accomplish their purposes, defendants Harris, Woolsey, Studeman and Tenet directly, and indirectly though their subordinates, obtained the cooperation of defendants Fahey and

Hulkower. Mr. Hulkower attempted to order or persuade ADC officials to restrict plaintiff's communications from the ADC, especially with the press, and to require Mr. Hulkower's approval of press interview requests and visitors. ADC officials, however, refused to do so.

35. In July 1994, by threatening to increase the sentence to be imposed upon plaintiff's wife, Mr. Hulkower obtained plaintiff's agreement to refuse press interview requests until her sentencing.

36. In July 1994, angered by an interview published by The New York Times, defendants Harris, Woolsey, Studeman, Tenet, Fahey and Hulkower resolved to remove plaintiff speedily from the Washington area, regardless of the inconvenience to government investigators of his case, and to seek BOP cooperation in imposing the restrictions and punitive conditions they desired. They therefore obtained the agreement of defendants Hawk and Cheney to order plaintiff's transfer to USP Allenwood where its Warden, defendant Holland, and staff would be instructed or persuaded to impose the conditions wanted.

37. In late July and early August, defendants agreed to extend or delegate to defendant Woolsey and the CIA the statutory authority of the Attorney General and defendant Hawk to determine the conditions of plaintiff's imprisonment, and defendant Holland was instructed or persuaded to develop, together with defendants Hawk, Cheney and the CIA defendants, procedures and

justifications for accomplishing the CIA's purposes.

38. The measures defendants agreed upon, in July and August 1994 and subsequently, included long-term, indefinite solitary confinement at Allenwood or elsewhere, CIA approval and control over plaintiff's communications with members of the class and the imposition of harsh, punitive and painful conditions of confinement. Defendants Harris, Woolsey, Studeman, Tenet, Fahey, Hulkower, Hawk, Cheney and Holland agreed upon them directly and indirectly, communicating among themselves or though subordinates by letters, memoranda, meetings and the telephone, knowing that the purposes of their actions were to restrict and control plaintiff's and the class members' private and public speech for impermissible purposes, to impose extra-legal punishment upon him for his offenses of conviction, and to retaliate against and deter his exercise of free speech rights.

Transfer to USP Allenwood and Placement in Administrative Detention

39. Plaintiff was transported to USP Allenwood on August 11, 1994, wearing the needlessly painful and correctionally unnecessary "black box" handcuff device during the three and a half hour trip, arriving with painful, bruised and swollen wrists. Which of the defendants ordered this ostensible security measure is unknown to plaintiff at this time.

40. On his arrival at Allenwood, plaintiff was briefly interviewed by defendant Rodman, given unrestricted general

correspondence and inmate telephone privileges, and assigned to general population Housing Unit 2-B.

41. Defendant Radebaugh placed plaintiff in Administrative Detention as a newly-arrived inmate awaiting classification. 28 C.F.R. §541.22 permits the prison warden or his designee to place a newly-arrived inmate in Administrative Detention pending his Initial Program Review, the hearing and procedure mandated by 28 C.F.R. §524.10 to be scheduled within four weeks of arrival.

42. Administrative Detention is defined by 28 C.F.F. §541.22 as the temporary segregation of prisoners from the general population of a prison in the interests of prison safety, security and good order. Valid and genuine reasons for administrative segregation set forth in federal regulations and BOP policy must exist and its use for other purposes is impermissible. While prisoners in transit and those newly-arrived at a prison may be placed in Administrative Detention pending their departure or classification, all other reasons for placement in Administrative Detention must be accompanied by a determination that segregation is necessary for serious reasons of prison security and safety. Conditions of confinement in Administrative Detention may not be punitive in purpose, and must afford prisoners conditions significantly better than those imposed on prisoners serving terms of punitive confinement in the Special Housing Unit. Prisoners in Administrative Detention should be provided the exercise of rights and privileges

equivalent to, or approaching those enjoyed by the prison's general population. Confinement in Administrative Detention must be brief in duration; other prison regulations such as 28 C.F.R. §§541.23 and 541.50 provide for longer-term administrative segregation. Due process reviews, hearings and procedures are required by regulations.

Denial of Classification

43. In concert with other defendants, defendant Holland determined that by confining plaintiff indefinitely in Allenwood's Special Housing Unit, the imposition of the controls and restrictions on his communications desired by defendants and the CIA would be facilitated, and that the harsh and punitive conditions of administrative segregation practiced in Allenwood's Administrative Detention would satisfy the punitive intentions of the other defendants.

44. Defendants therefore resolved to keep plaintiff in Administrative Detention indefinitely under the pretext of awaiting classification. To do so, Warden Holland instructed defendant Rodman, whose duty as plaintiff's case manager was to organize and schedule his classification hearing within four weeks after his arrival, to refrain from doing so in order to give color to the chosen pretext for plaintiff's solitary confinement in the Administrative Detention.

45. Defendant Holland instructed defendant Clemens, who had the

duty, under 29 C.F.R. §541.22, of performing weekly and monthly segregation reviews, to decline to inquire into the reason for plaintiff's segregation and whether that reason might have ceased to exist, requiring his release.

46. Between August and December 1994, defendants resolved not to disclose their purposes, practices and justifications to plaintiff. Defendant Radebaugh failed to provide plaintiff a copy of the August 11, 1994 Administrative Detention Order which authorized his segregation and gave pending classification as the reason. Defendants did not provide plaintiff notification or disclosure of the special procedures arranged with the CIA defendants for approving, censoring, monitoring and otherwise managing his communications from prison. Provision of the Administrative Detention Order, notification of correspondence restrictions, procedures and rules, and the Admission and Orientation program designed to familiarize new inmates with prison programs, privileges and services, the disciplinary code and inmate rights and obligations, all required by federal regulations, 28 C.F.R. §§524, 540 and 541, were denied plaintiff.

47. Between August and December 1994, defendants sought to conceal their true practices and purposes as well as the pretextual reason for plaintiff's confinement in Administrative Detention by offering plaintiff and his attorney other reasons for his segregation. Defendant Rodman advised plaintiff that his Initial Program Review could not be held until Allenwood staff

received his Post-Sentencing Investigation Report (PSI) from his probation officer, a pretext contradicted by BOP policy and 28 C.F.R. §524, which recognize that new inmates' PSI's may be unavailable for the Initial Program Review and prescribe procedures for doing without it. Plaintiff's PSI was completed on September 15, 1994 and made available to USP Allenwood a few days later, but Miss Rodman, guided or instructed by other defendants, continued to deny plaintiff the Unit Team classification meeting which would require his release from Administrative Detention.

48. Plaintiff's attorney was told in September and October 1994 by defendant Hulkower that plaintiff was in involuntary protective custody imposed by USP Allenwood staff because of threats made to his safety by a group of Vietnam veterans in Allenwood's general population. Plaintiff does not know at this time whether Mr. Hulkower or others fabricated this false pretext. Involuntary protective custody may be imposed in accordance with 28 C.F.R. §541.23, but defendants in fact chose not to do so.

49. During September and October 1994, members of defendant Haver's investigative staff visited USP Allenwood to continue plaintiff's debriefings. Mr. Haver and his staff consulted with defendants Holland, Rodman, Hamm and other Allenwood staff concerning plaintiff's correctional treatment and restrictions to be imposed upon him and members of the class. Mr. Haver or his

staff told Allenwood staff that plaintiff's segregation in Administrative Detention was desired by the CIA because plaintiff could more easily be denied access to the Inmate Telephone System and regular and Special Mail handling and procedures. Defendant Hamm conducted Mr. Haver and other CIA officers on a tour of USP Allenwood to show them the conditions of prisoners in general population. Based upon these consultations and observations, together with their knowledge of plaintiff's desire for release to the general population, Mr. Haver and his staff advised defendants Woolsey, Studeman and Manget that plaintiff's solitary confinement in the Administrative Detention should be continued in order to facilitate CIA control over his and the class members' communications and that conditions for the general population were insufficiently harsh or punitive.

50. Defendant Hawk visited USP Allenwood on at least two occasions between August and December 1994 and consulted with defendant Holland and others on the measures taken and planned by the defendants in Washington, D.C. and upon their implementation by Warden Holland and his staff.

51. On September 22, 1994, CIA Officer Richard Bloodsworth and another CIA employee, both serving on defendant Haver's staff, met with plaintiff at Allenwood. Mr. Bloodsworth told plaintiff that defendant Woolsey would transfer plaintiff to more repressive conditions of confinement should he disapprove of plaintiff's statements during an upcoming press interview.

52. Between August and December 1994, plaintiff was generally unaware of his status at Allenwood, his rights as a federal prisoner, defendants' purposes and many of their practices as described herein and of BOP policies and procedures. He believed that the Bureau of Prisons and USP Allenwood staff were engaged in a bona fide assessment and determination of his status. By December, however, he had discovered defendants' practices regarding his legal mail and had obtained a copy of his Administrative Detention Order which, when compared with federal regulations and Bureau of Prison policies available in the Special Housing Unit branch law library, caused him to suspect that his status and treatment were irregular, and possibly in violation of the law and his rights.

Plaintiff's Initial Classification Hearing at USP Allenwood

53. Plaintiff requested an Initial Program Review in early December 1994, and defendants decided to permit his Unit Team to conduct a sham review on December 16th to show the color of compliance with federal regulations. According to 28 C.F.R. §524 and BOP Program Statement 5322, the purpose of a Program Review is to review and make recommendations and decisions concerning the full range of prisoners' conduct and correctional treatment, including their designation, classification and access to programs and services.

54. The Initial Program Review was conducted on December 16,

1994, in a rote, perfunctory manner. Plaintiff was given no adequate notice of the review meeting and the Unit Team members, including defendant Rodman, failed to make the preparations required by regulations to make it meaningful. Plaintiff was informed by Miss Rodman and Mr. Sheehey, who chaired the review, that he was confined in Administrative Detention pending completion of a "Threat Assessment" and the receipt of information or guidance from the CIA. The Unit Team responded to Plaintiff's inquires about the nature of possible security concerns by saying they had no information about it.

55. The Unit Team did confirm plaintiff's security designation and custody classification as "High/In", a level appropriate for placement in Allenwood's general population and made no recommendations for the restriction of any rights or privileges. It recommended that plaintiff remain segregated in the Special Housing Unit until the threat assessment had been completed. An assessment or determination of whether a security threat might or might not exist is not a permissible reason for administrative segregation under 28 C.F.R. §541.22.

Defendants' Denial of Segregation Reviews

56. Despite the formal completion of plaintiff's classification on December 16, 1994, the defendants continued in their resolve to keep him segregated under the pretext of awaiting classification. Defendant Holland therefore instructed Plaintiff's Segregation Review Officers to conduct rote, pro

forma weekly and monthly reviews of the grounds for his confinement in Administrative Detention.

57. According to 28 C.F.R. §541.22, prison staff designated as Segregation Review Officers (SRO) have the duty to review, weekly and monthly, the reasons for a prisoner's placement in Administrative Detention and, if those reasons are determined to no longer exist, to release him. Since August 1994, defendants Clemens, Noone, Radebaugh, Santos and Bell have been designated as plaintiff's SRO and, in accordance with instructions or guidance from defendant Holland, repeatedly refused to recognize the fact of plaintiff's classification, to inquire into the reasons for his segregation, or to place plaintiff's requests and views on the record.

58. The SRO's also failed to perform many of the required weekly file reviews and to note the failure of prison staff to perform the required monthly psychological assessments. The SRO defendants admitted to plaintiff during monthly reviews after December that they would not release plaintiff from Administrative Detention without instructions from their superiors. They also told plaintiff that they had no knowledge of the reasons for plaintiff's confinement in Administrative Detention.

59. Perfunctory Unit Team Program Reviews were held in June and December 1995. The Unit Team determined that plaintiff's classification as "High/In" was still appropriate and made no

recommendations concerning any change in his correctional treatment or access to prison rights and privileges. Unit Team members, including defendant Rodman, stated that plaintiff was segregated at the instructions of the CIA for reasons unknown to them.

Defendants' Delegation of Authority to the CIA and Use of Supplementary Pretexts

60. Despite their continuing formal reliance upon the pretext of segregation "pending classification," defendants in December 1994 began to respond to formal and informal inquires and complaints by plaintiff and his attorney by offering a number of other supplementary pretexts and rationales relating to the roles and purposes of the CIA defendants and the BOP defendants' delegation of correctional and law enforcement authorities to the CIA.

61. On December 19, 1994, defendant Cheney wrote to plaintiff's attorney, stating that plaintiff was segregated pending the completion of a threat assessment and the receipt of guidance from the Intelligence Community. The head of the Intelligence Community is the Director of Central Intelligence, then defendant Woolsey and currently defendant Deutch.

62. On February 23, 1995 defendant Holland wrote in response to plaintiff's Administrative Remedy request that he had himself determined two reasons for plaintiff's segregation. First, Mr. Holland stated that his general prison security concerns had been

aroused by a letter from defendant Hulkower which conveyed recommendations or concerns from defendants Woolsey or Deutch. Second, Mr. Holland stated that plaintiff's plea agreement, in providing the CIA a right to prepublication review, required Mr. Holland to segregate him. Neither of Warden Holland's reasons provides grounds for administrative detention under 28 C.F.R. §541.22.

63. On April 13, 1995, defendant Ortiz, BOP North East Regional Director wrote plaintiff, saying that defendant Holland's reasons for plaintiff's segregation were valid and appropriate. Claiming falsely to have conducted an independent investigation of plaintiff's Administrative Remedy request and appeal, Mr. Ortiz stated that he had determined an additional reason for plaintiff's segregation. Because plaintiff's plea agreement contained a sentence recognizing plaintiff's obligation not to violate federal secrecy laws, Mr. Ortiz wrote that his segregation is justified to prevent him from attempting to break those laws. Federal regulations do not permit administrative segregation for this reason.

64. On July 19, 1995, Mr. Frank Crosley responded from the BOP central office, on behalf of defendant Cheney, to plaintiff's final level of Administrative Remedy appeal. Mr. Crosley made no reference to defendants Holland's or Ortiz's claimed determinations that general prison security or law enforcement concerns existed, but returned to the simpler pretext that

plaintiff was segregated merely pending classification. Mr. Crosley did, however, add that plaintiff's plea agreement permits or requires segregation, an assertion contradicted by BOP policy and 28 C.F.R. §541.

65. Since February 1995, defendant Cheney and John Martin, Chief of the Internal Security Section of the Department of Justice, have been in occasional communication with plaintiff's attorney in Washington, concerning plaintiff's status at Allenwood. In several conversations, and notably at a meeting on May 22, 1995, Cheney stated that plaintiff's status and conditions of confinement were under CIA control and that any changes required CIA approval. He identified defendant Studeman as having been one CIA official particularly concerned to keep plaintiff in solitary confinement. Cheney also offered several other pretextual grounds for plaintiff's segregation, claiming that plaintiff needed to be in protective custody, was considered likely to break prison rules and federal secrecy laws, and is an escape risk.

66. On January 19, 1995, Mr. Robert Chestnut, an Assistant U.S. Attorney in Alexandria and a member of defendant Fahey's staff, told plaintiff's attorney that the CIA required plaintiff's segregation in order to deny his access to the Inmate Telephone System. Mr. Chesnut explained that the CIA had been embarrassed in the past by being unable to monitor plaintiff's telephone calls from the Alexandria City Detention Center. Mr. Chesnut

also stated that defendants feared that plaintiff might use the Inmate Telephone System to contact the Russian Intelligence Service.

67. Defendants sponsored and encouraged these pretextual justifications deliberately, knowing that none are permissible grounds for short-term administrative segregation or long-term solitary confinement under federal regulations and BOP polices and rules. 28 C.F.R. §541 provides federal prison officials broad discretionary authority for imposing protective custody and long-term solitary confinement for the most serious reasons of prison safety and security. Regulations and policy governing correspondence and telephone use also provide ample authority and discretion to accommodate prison security and law enforcement concerns, including their monitoring by prison officials and use by law enforcement agencies such as the FBI. Defendants knew that valid grounds for their professed prison security and law enforcement concerns did not exist, and therefore chose not to invoke their legitimate powers under the regulations. Defendants knew that the lawful imposition of protective custody or long-term administrative detention requires the conduct of meaningful due process, evidentiary hearings and procedures, and chose instead to rely upon the less demanding and compromising sham conduct of the minimal procedures required to justify short-term administrative segregation.

Defendants' Use of Unconstitutional Conditions to Deny Plaintiff Due Process

68. During the spring of 1995, defendants conceived the idea of rewriting federal prison regulations in order to legitimize their practices. Promulgated in October 1995 as 28 C.F.R. §501.2, the new regulation provides for the imposition of solitary confinement under punitive conditions, the restriction of constitutional and legal rights and the denial of virtually any prison privilege and benefit without meaningful due process and at the initiative of the DCI or other intelligence community officials. The regulation lacks, however, the desired effect of legalizing the defendants' past practices and of turning over control of plaintiff's and class members' communications to the CIA. Defendants therefore resolved to concentrate their efforts upon extracting plaintiff's consent to their past and present actions, reserving the new regulation for future use, particularly in enforcing the hoped-for future agreement. In March 1996, defendants did use 28 C.F.R. §501.2 to prohibit arbitrarily visits to plaintiff by a class member, one whose visits had previously been approved by the BOP and the CIA.

69. The promulgation of 28 C.F.R. §501.2 permits CIA and other government officials to impose punitive conditions of confinement, to deny or restrict prisoners' exercise of protected constitutional rights and of any other prison rights or privileges upon the mere assertion that a violation of federal law might occur. The purpose of the regulation is to impose

prior restraint upon the protected free speech rights of plaintiff, the class members, and a potentially large number of others, without regard to whether their rights are implicated by imprisonment or not. Its purpose also includes that of deterring and punishing plaintiff's exercise of protected free speech rights. The regulation authorizes the exemption of plaintiff, members of the class and others, imprisoned and free, from the protection of federal law, regulations and the Constitution without due process and for no valid governmental purpose.

70. On May 25, 1995, defendant Cheney suggested to plaintiff's attorney that Allenwood's SHU and its rules afforded prisoners less comfort than the BOP's long-term solitary confinement units at Marion and Florence. He invited plaintiff to choose between the two, or to remain in Administrative Detention at Allenwood. Plaintiff declined to make such a choice.

71. In August 1995 and February 1996, defendants presented plaintiff a document to sign which purported to be his request that, in exchange for USP Allenwood's consideration of his request for a "housing reassignment" to general population, plaintiff would agree to waive rights of access to the courts, of communication with family and friends, to the due process procedures of prison disciplinary regulation and to a wide range of prison privileges, benefits and services. Defendants' solicitation required that plaintiff assent to defendants' past practices, and that he permit defendants to deny or restrict any

of his rights and privileges without due process and without any cause other than bare assertion of unspecified prison and national security concerns.

72. Eager to escape the harsh conditions of his solitary confinement in Allenwood's SHU, plaintiff informed defendant Cheney of his willingness to surrender certain of his rights in exchange for release, but sought also to narrow the scope of the restrictions and denials demanded to exclude measures he thought unnecessary to accomplish defendants' ostensible, professed goals. He submitted a counterproposal to this effect and also requested that he be granted certain privileges in return. Plaintiff's proposal was rejected by defendant Deutsch in a CIA statement to the press in August 1995. In the months following that rejection, defendants made several minor modifications to the August 1995 "Statement" and presented it to plaintiff as a "take it or leave it" offer for his release from solitary confinement in February 1996.

73. Though plaintiff indicated his willingness to follow the specific rules laid out in the "Statement," subject to his reservation of his rights to judicial and other relief, defendants refused to take any action for two more months, permitting plaintiff to sign it only on April 23, 1996 and releasing him from Administrative Detention two days later, some 20 months after his arrival at Allenwood.

74. In this manner defendants used the harsh and punitive conditions of Administrative Detention and the threat of its indefinite and potentially life-long continuation to extract plaintiff's consent to the special rules in the "Statement." Defendants knew that solitary confinement in Allenwood's SHU was not necessary for the arbitrary and unilateral imposition of CIA controls over him and class members, nor for the accomplishment of any legitimate penological, law enforcement or other governmental objective. Their purposes were, first, to punish for his offense of conviction and, second, to coerce him into yielding up his and the class members' protected constitutional and legal rights. This tactic enabled defendants to claim the color of law for their practices after April 21, 1996. Plaintiff's consent was in fact involuntary and renders defendants' claims of legality invalid.

75. In the final version of the "Statement" presented plaintiff in April 1996, defendants all but abandoned the pretext that the CIA defendants' interests were and are motivated in whole or in significant part by the right to prepublication review granted the CIA in plaintiff's plea agreement, and relied instead upon the CIA's arbitrary assertion of unspecified prison, law enforcement and national security concerns.

Plaintiff's Conditions of Confinement in Allenwood's Special Housing Unit

76. The conditions of confinement to which plaintiff was

subjected in Allenwood's Administrative Detention were punitive in their character and effects. The distinctions mandated and encouraged in 28 C.F.R. §541.21 and §541.22 between the conditions of administrative and punitive segregation, when maintained, were observed in a perfunctory manner by defendants Holland, Clemens, Noone Santos and Bell. Plaintiff's access to prison programs and services, out-of-cell exercise, and the Administrative Detention branch law library was the same given to prisoners in Disciplinary Segregation ("D/S"). Plaintiff was subjected to the same rigorous and painful security rules and restraints imposed on D/S prisoners and Administrative Detention prisoners judged dangerous or violent. Defendants require plaintiff to wear distinctive, uncomfortable and inadequate Administrative Detention-issued clothing despite the right granted in 28 C.F.R. §541.22 to wear regular prison-issue clothing.

77. Plaintiff was permitted fewer than four hours per week of out-of-cell exercise despite the requirement of 28 C.F.R. §541.22 for at least five hours, and its strong recommendation that prisoners in Administrative Detention receive more than five.

78. Out-of-cell exercise provided at Allenwood's Special Housing Unit consists of confinement in outdoor cages approximately twice the size of its cells, equipped only with a chinning bar and occasionally with a rubber ball. Clothing and footwear furnished is inadequate for protection from inclement

and winter weather. Plaintiff was required to choose between suffering from the elements or receiving no out-of-cell exercise. During the most extreme periods of bad weather, recreation is merely canceled and the Special Housing Unit staff attempts, often unsuccessfully, to reschedule it.

79. The special clothing issued plaintiff by Administrative Detention staff was inadequate when cell temperatures fell below fifty degrees, as they did on many occasions during December 1994, January-February 1995, and in February 1996 when plaintiff suffered from the cold and spent many days and nights fully dressed, wrapped in the single blanket provided.

80. In September 1995 plaintiff began to notice swelling and minor pain in his feet after outdoor exercise. As the pain increased, plaintiff complained to medical staff in November. In December and January 1996 plaintiff was examined by a USP Allenwood physician and an outside podiatrist, both of whom believed the lack of adequate shoes over such an extended period were or might be responsible and recommended that he be provided proper footwear. His requests for relief were referred by the medical staff to defendant Holland, who authorized the issuance of plaintiff's shoes in February with the concurrence of other defendants in Washington, D.C. Defendants' pretextual denial of adequate footwear for 16 months and their interference with and delay in responding to medical needs inflicted pain and potentially serious injuries on plaintiff.

81. Defendants refused plaintiff all but a few prison commissary products. Plaintiff was permitted to shave only twice or three times a week and could not clip his fingernails more often than about once each month or two. As a result, he had to meet visitors, press interviewers and government investigators in an unshaven, ungroomed state, unpleasant and humiliating for both plaintiff and his visitors.

82. When out of his SHU cell, plaintiff was under physical restraint, handcuffed from behind or chained and handcuffed from the front. These frequently painful and always humiliating restraints were employed within the highly secure confines of the Administrative Detention, where meetings with prison staff took place, legal phone calls are provided and other administrative matters were handled, such as haircuts. The only exception to the use of these restraints occurred when plaintiff entered the Visitors Room to meet with government investigators, press representatives or to meet personal visitors during visiting hours, at which times plaintiff circulated free of restraint among general population prisoners and their visitors.

83. Before meetings with FBI, CIA and other government investigators, plaintiff was subjected to a correctionally purposeless, intrusive and humiliating nude visual inspection of body cavities.

84. Plaintiff occupied a 9′ x 12′ cell which afforded some twenty square feet of usable floor space. No adequate chair or

table was provided and plaintiff suffered from physical fatigue and discomfort alternating between sitting or lying on his bed and crouching upon the small stool and shelf table with which the cell was equipped. The severe restrictions on physical movement and lack of proper seating, together with inadequate out-of-cell exercise presented a serious danger of physical degeneration and permanent injury, particularly for a prisoner of plaintiff's age, and caused him to suffer gradual physical decline, pain and discomfort. Cell lighting was controlled by SHU staff from outside. The cell door is constructed to prevent all but loud conversations between plaintiff and staff and to prevent eye contact between them while speaking. The door and corridors are designed to isolate prisoners in the same manner as the old fashioned and impermissible "box car" cells.

85. Defendants forbade or discouraged prison staff from counseling or otherwise speaking with plaintiff beyond that necessary to their immediate administrative duties.

86. Twice, in October and December 1995, plaintiff was transferred to a mental observation cell in Allenwood's hospital by defendants Holland and Santos, ostensibly because SHU was short of space and the single cell occupied by plaintiff was needed for other prisoners. Plaintiff spent about four weeks in the cell, which was lit 24 hours a day through large observation windows, lacked a chair and table, and in which a metal bed fastened to the floor in the middle of the cell was the only

place to sit. Plaintiff's requests for the provision of adequate privacy, some hours of darkness and a chair and table were refused by defendant Holland.

87. Federal regulations, 28 C.F.R. §541.22, and BOP policy authorize the use of administrative segregation for relatively short periods of a few weeks or months and the conditions of confinement authorized by regulation and as practiced by Allenwood are intended for such short-term confinement. Plaintiff's lengthy incarceration in Administrative Detention for more than a year and a half not only greatly exceeded the scope envisioned by regulation and policy, but intensified and magnified the cumulative effects of solitary confinement, onerous Administrative Detention rules and practices, and his lack of exercise, clothing and the relative liberty and access to prison programs, privileges and services enjoyed by other prisoners at Allenwood. The punitive, painful and oppressive effects of defendants' practices over such a long period were additionally increased by their denials of other rights and privileges described below in relation to his communications. As a result of defendants' deliberate actions since August 11, 1994, plaintiff suffered severe physical discomfort, debilitation and pain, as well as intense mental suffering and anxiety from isolation, inactivity and fears that irreparable physical and mental injuries may result from such indefinite solitary confinement and from defendants' continued policies, which plaintiff believed to be maliciously and vindictively intended to

injure him. Defendants were aware of the significant risks and dangers to physical and mental health which solitary confinement poses.

Defendants' Denials and Restrictions of First Amendment Rights

88. Defendants Woolsey, Studeman, Tenet and Harris had concluded, between May and September 1994, that the government had made a bad bargain with plaintiff in his plea agreement. The government had required only that plaintiff undertake the obligation to submit writing or speech intended for publication or broadcast to the CIA for prepublication review. In order to monitor and react to possible criticism of themselves and their policies, the defendants resolved to extend CIA control into all areas of plaintiff's communication with others, inside and outside prison. Accordingly, defendants abandoned their initial May 1994 policy of seeking an agreement with plaintiff on procedures to implement prepublication review and obtained the cooperation of defendants Hawk, Cheney and Holland to impose their unilateral policies of CIA control upon plaintiff's and the class members' communications.

89. In developing these policies, defendants realized that other purposes useful to them might be obtained through their unilateral and arbitrary actions, and accordingly extended the CIA's reach to plaintiff's legal communications and correspondence with other government offices and officials, such

as that with FBI and Congressional investigators, in order that the CIA could monitor his legal and other protected activities to protect CIA defendants' interests.

90. Defendants Woolsey, Deutch, Studeman and Tenet acquired the active cooperation of other defendants in order to establish CIA control over plaintiff's and class members' communications, permitting the CIA to monitor, censor and use their contents for its own purposes. Defendants use this control to monitor and study plaintiff's relationships with members of the class, for foreign intelligence and counterintelligence analysis and collection, to censor arbitrarily certain communications, to learn of and plan countermeasures to possible criticism of defendants and the CIA, to arrange and manipulate press access to plaintiff to minimize the possible critical impact of the resulting news stories, to obstruct plaintiff's access to legal advice and the courts and, through their control of his communications, to restrict, chill and limit the frees expression of plaintiff and members of the class, whether communicating by mail, telephone or prison visits.

91. To implement their wide-ranging plan while plaintiff was confined in Administrative Detention, defendants devised procedures to be followed by defendants Holland, Hamm, Rodman and other USP Allenwood staff, and restrictions to be imposed upon plaintiff's access to prison rights, privileges and services and upon his use of the mail, telephones and visits. Plaintiff's

pretextual segregation in Administrative Detention facilitated their controls and restrictions by subjecting him to the already extremely restrictive rules of Allenwood's Special Housing Unit.

92. Defendant Rodman, with the cooperation of other Allenwood and BOP staff, provided plaintiff's general correspondence to defendants Manget, Zirkle and Davis, who read, censored, copied its contents and circulated it to other CIA and government offices, officials and foreign intelligence and security services. Several weeks or more later, CIA officials place plaintiff's outgoing letters in the mail in Northern Virginia. Plaintiff's incoming general correspondence was provided, in photocopied or faxed form, to the CIA by Miss Rodman, based upon consultation with CIA officers, directly or through the BOP's central office.

93. Defendants Hawk, Cheney, Holland and Rodman declined to open plaintiff's sealed Special Mail, which is protected from opening by 28 C.F.R. §540. Plaintiff's confinement in the Special Housing Unit, however, prevented him from placing his sealed outgoing Special Mail in Allenwood's dedicated Special Mail depository. Special Housing Unit staff was instructed to deliver it to Miss Rodman, who sent the mail unopened to the CIA for opening and treatment identical to that given his general correspondence. Defendants' treatment of his Special Mail in this manner included legal correspondence and letters addressed to individual defendants, FBI investigators, journalists, the Congress and his Administrative Remedy appeals.

94. Defendants arbitrarily removed, censored and returned without notification, material in plaintiff's correspondence. Defendant Rodman and other BOP staff consulted with CIA officials, including defendants Manget, Zirkle and Davis, to determine how selected materials should be handled. Defendants imposed an arbitrary and capricious English-language-only rule on plaintiff's mail in order to justify denying him certain correspondence, based upon their disapproval of its contents or the correspondent.

95. In processing and handling plaintiff's and class members' mail, defendants imposed routine delays in its transmission ranging from several weeks to a month or more, and handled it negligently. Defendants lost letters, mailed one from New York City, and on at least one occasion retained the original letter addressed to a family member, supplying her with a photocopy instead.

96. Copies of, or information from plaintiff's and class members' correspondence, have been used by the CIA to brief Congressional committees, by CIA and other counterintelligence investigators, to study and investigate the activities of plaintiff's correspondents, to assess plaintiff's state of mind and activities in prison, to brief selected journalists and to prepare measures to counter or reduce the impact of plaintiff's criticism of the CIA and his attempts to seek relief from his treatment at Allenwood.

97. Since plaintiff's release from the SHU on April 23, 1996, defendants have relied upon his consent to CIA control of his correspondence given in the "Statement" of April 21, 1996, one of the conditions of his release from solitary confinement.

98. Defendants' mail practices restrict and interfere with plaintiff's and the class members' protected use of the mail and violate prison correspondence regulations which restrict access to prisoners' and their correspondents' mail to prison and law enforcement officials for valid and legitimate purposes and under clear procedural guidelines. Defendants' practices also violate 18 U.S.C. §1708, which prohibits the taking of mail from established mail routes or depositaries, and U.S. Postal Service regulations.

99. Defendants have also resolved to restrict and reduce plaintiff's exercise of his rights to correspond and write by making it as laborious and time consuming as possible. Defendant Holland accordingly denied plaintiff the ability to purchase a ball point pen from the prison commissary, and defendants have refused his request for a typewriter or word processor for in-cell use. In August 1995 and February 1996, defendants conditioned their offer to release plaintiff from solitary confinement upon his waiving such access to typewriters or word processors as BOP policy and rules might permit other prisoners.

100. Plaintiff's formal status in Administrative Detention

pending classification permitted defendants pretextually to limit him to one 15 minute-long telephone call each month. Additionally, plaintiff was denied the use of USP Allenwood's Inmate Telephone System and collect calling capability. His requests for calls were submitted by defendants Holland and Rodman to the CIA for approval and imposition of conditions and procedures permitting live CIA monitoring. Plaintiff was also required to pay for the cost of the calls to the CIA permitting its monitoring.

101. Since his release from Administrative Detention, plaintiff is permitted use of the ITS direct billing system, subject to CIA approval and monitoring. Plaintiff is requested to pay the costs of routing calls through CIA control and monitoring facilities and is prohibited from making collect calls. Plaintiff's consent to these restrictions was one of the conditions imposed upon his release from solitary confinement.

102. Defendants require CIA approval of plaintiff's proposed visitors. Visitors have been disapproved by defendants for unexplained "administrative" or other arbitrary reasons, and approvals are conditioned upon live or covert electronic monitoring conducted by or for the CIA. In March 1996, defendants arranged to make use of the novel prison regulation, 28 C.F.R. §501.2 to bar a visitor previously approved by the BOP and CIA.

103. Defendants Holland and Hamm seek CIA approval of and

guidance for news media requests to interview plaintiff. The CIA defendants use their control to select interviewers, establish their order of priority and to select arrangements, times and the manner of interviews to minimize possible critical impacts upon them and the CIA from the resulting news stories. The CIA imposes delays of months, sometimes six months or more, in permitting interviews, reducing thereby the newsworthiness sought by the requester. One interview by The Washington Post was delayed almost seven months by defendants in order to avoid publication of the interview during defendant Deutch's Senate confirmation hearings and other hearings concerning CIA activities in France and Guatemala.

104. The CIA defendants use their access to plaintiff's sealed Special Mail to journalists to assess the likely nature and contents of the proposed interviews and to impose lengthy delays in mailing plaintiff's correspondence to prevent or obstruct the interviewer and plaintiff from discussing and agreeing upon the nature and agenda of interviews. The CIA defendants exploit their approval authority to place conditions upon press interviewers and their knowledge of correspondence with plaintiff to brief the interviewer and to attempt to influence the news interview itself. When defendant Davis attends news interviews pursuant to the CIA's right to prepublication review granted in plaintiff's plea agreement, she also tape records the interview for the purpose of providing defendants advance knowledge of the news stories which may be published, a practice prohibited by 28

C.F.R. § 540.60.

Defendants' Use of Disciplinary Procedures to Punish Plaintiff for the Exercise of First Amendment Rights

105. In October 1995, plaintiff's counsel in Washington was engaged in discussions with defendant Cheney concerning plaintiff's status at Allenwood. One aspect of these discussions involved the question of what ordinary prison privileges plaintiff might be able to enjoy in light of the fact he had no record of misconduct. Defendant Cheney then instructed or encouraged defendants Holland and Rodman to create such a record in order to disqualify plaintiff from applying for certain privileges or benefits.

106. In October 1995, Allenwood counselor Lopez, sponsored or encouraged by defendants, brought capricious, exaggerated and false disciplinary charges against plaintiff in connection with an attempted telephone call by plaintiff to a family member. Ignoring the trivial nature of the incident and the numerous opportunities for informal resolution of such incidents provided and encouraged by the disciplinary regulations, plaintiff was prosecuted and found guilty of swearing at Mr. Lopez.

107. In November 1995, sponsored or encouraged by other defendants, defendant Rodman brought disciplinary charges against plaintiff in retaliation for his having written a book review for publication, falsely alleging that plaintiff was conducting a business. Evidence in Allenwood staff's possession and that

offered by plaintiff confirming the falsity of the charge was suppressed and ignored. The nature of the offense charged and what conduct of plaintiff constituted a prohibited act was not explained at any point in the disciplinary process. Defendant Hamm intervened in the Unit Disciplinary Committee's deliberation and, at his insistence, plaintiff was found guilty. Plaintiff's appeals to defendants Holland and Ortiz were perfunctorily dismissed.

Defendants' Violation of Plaintiff's Rights of Access to the Courts

108. Defendants' denials and restrictions of plaintiff's rights and delegation of control over plaintiff's conditions of confinement and communications to the CIA extend to deliberate and purposeful denial of adequate access to legal advice, the courts and the ability to study, research and prepare legal documents and correspondence.

109. Plaintiff's outgoing Legal Mail, a category of Special Mail defined as that addressed to attorneys and the courts, is provided by defendants Holland and Hawk to the CIA for opening, reading, censorship and use, just as his other correspondence and Special Mail is handled. In addition to the violation of confidentiality proscribed by 28 C.F.R. §540.18, the resulting delays of several weeks to a month or more gravely obstructs plaintiff's ability to deal with necessary legal matters.

110. In December 1994, following plaintiff's discovery of their

practices concerning Legal Mail and his attorney's protests, defendant Manget authorized defendants Holland and Rodman to mail plaintiff's sealed letters to that attorney, plaintiff's court-appointed defense counsel. Although Warden Holland and Miss Rodman ceased to provide those letters to the CIA, they continue to impose consistent delays ranging from three days to a week or more in mailing them from USP Allenwood. In November-December 1995, CIA defendants permitted plaintiff to send Legal Mail to a second attorney they approved, although defendant Holland was encouraged to impose arbitrary delays in arranging a legal visit.

111. In September 1994, defendant Rodman threatened to open plaintiff's clearly marked and identified incoming Legal Mail unless his attorney offered additional verification by writing his name on the envelope. In August 1995, Miss Rodman deliberately opened and read, outside plaintiff's presence, a clearly identified letter to plaintiff from the Clerk of this Court.

112. Plaintiff's use of Legal Mail to obtain advice and assistance from counsel in protesting and appealing for relief from his conditions at USP Allenwood caused defendants Fahey, Hulkower and Holland to harass and threaten him with disciplinary action, threats instigated by CIA defendants and defendant Cheney.

113. Defendants Holland and Rodman require CIA approval of plaintiff's requested legal phone calls and advised plaintiff and

his attorney in September - December 1994 that no legal phone calls could be permitted unless he had urgent court business, a policy they knew was contrary to 28 C.F.R. §540.103. Between December 1994 and April 1996, many of plaintiff's occasional requests for legal telephone calls were denied by the CIA or, if permitted by the CIA, denied, in effect, by means of delaying their provision for several days or a week or more. Most of plaintiff's permitted legal phone calls while plaintiff was in the SHU were provided him by defendants Holland and Rodman as a result of persistent requests from his attorney.

114. Although CIA-approved legal phone calls provided plaintiff took place within the secure confines of the SHU, plaintiff was chained and handcuffed in a manner preventing him from taking notes or referring to documents. Because defendants denied plaintiff the ability, through the mail or regular phone calls, to arrange for telephone "appointments" with his attorney, the utility of the calls during the 20 months in the SHU was significantly diminished. The counselors providing calls pressured plaintiff to restrict their duration to 15 or 20 minutes.

115. Since plaintiff's release from Administrative Detention on April 25,1996, defendants continue to impose these restrictions upon his protected legal communications, relying upon the consent extracted from him in the April 23, 1996 "Statement," upon which his release from solitary confinement was conditioned.

116. Defendant Holland denied plaintiff adequate access to the Allenwood law library, its material, resources and services, which include legal reference and study materials, typewriters, stationery and other supplies, and guidance for its use.

117. Plaintiff was permitted only to order or borrow photocopies of cases or other clearly identified materials from the law library. His three requests over a period of four months for a copy of this Court's rules were unanswered.

118. The small branch law library in Allenwood's Special Housing Unit, intended for use by prisoners in short-term confinement, possesses no typewriter, stationery and only inadequate and poorly organized legal reference materials. Special Housing Unit inmates are permitted only approximately one hour a week in the branch library, although defendants Clemens, Noone, Santos and Bell maintain an informal and impermissible policy of exchanging out-of-cell exercise periods for additional periods in the library.

119. Between August 1994 and April 1996, plaintiff's requests for access to Allenwood's main law library, for in-cell use of a typewriter or word processor, types of stationary and other materials needed for legal activities, supplied by the prison or himself, were perfunctorily denied by defendant Holland. Even plaintiff's requests to buy a ball point pen from the prison commissary were rejected.

Defendants' Violations of Law and Regulations

120. Defendants' practices as alleged in this complaint, taken individually and together, constitute an extraordinary prison regime, devised and imposed on plaintiff alone among federal prisoners for no valid penological reasons, but solely to punish him for his offenses of conviction, to retaliate for his criticisms of the government, and to suppress and obstruct the exercise of the rights and privileges still retained by federal prisoners and those possessed by members of the class. In addition to denying and restricting his rights, defendants' practices operate outside and in violation of numerous federal laws and regulations governing the policies and operations of the federal prison system and regulating prisoners' exercise of their legal and constitutional rights. These rights, laws and regulations include the duty to classify prisoners according to specific policy guidelines and to restrict or regulate prisoner's activities and rights only on correctional grounds or for correctional purposes. The sweeping deference and broad concessions of their authority and discretion by defendants Harris, Hawk, Cheney and Holland to the CIA defendants constitute the delegation of their correctional and law enforcement powers prohibited by 18 U.S.C. §4042 and 28 C.F.R. §§0.95 and 0.97. The CIA defendants' exercise of these correctional and law enforcement powers is also prohibited by the National Security Act of 1947. The use of arbitrarily imposed and harsh conditions

of solitary confinement to extract plaintiff's consent to many of these goals and practices renders the consent given in the April 23, 1996 "Statement" involuntary.

V. CLASS ACTION ALLEGATIONS

121. This action satisfies the requirement of Rule 23(a) and (b)(2) of The Federal Rules of Civil Procedure for a class action on behalf of the representative plaintiff's correspondents, telephone contacts, interviewers and visitors.

122. The class currently consists of approximately 75 persons who, since August 1994, have corresponded with plaintiff, are on his telephone contact lists, and have requested or made visits, whether for interviews or personal reasons. The members of the class are sufficiently numerous and dispersed throughout the United States, and abroad to make joinder of all members impracticable. The class may also include those who might in the future wish to communicate with plaintiff at USP Allenwood or another BOP institution and those who may currently wish to do so, but who have been or may be deterred from doing so by defendants' practices.

123. There are questions of law and of fact common to plaintiff and the class. Among the common questions of law are whether their written and oral communications with plaintiff may be subjected to control, arrangements, monitoring, censorship and use by a foreign intelligence agency, the CIA, without a warrant,

reasonable cause, due process, or legitimate governmental purpose, without violating their rights under the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution. Among the common questions of fact are defendants' alleged practices regarding their communications, the nature and character of defendants' motives and purposes underlying these practices, the extent and nature of injuries suffered and whether defendants' practices have violated federal law, regulations, and BOP policies and rules.

124. The claims of representative plaintiff relating to his communications with persons outside prison are typical and representative of the class, and are reflected in Counts Three, Four, Five and Six of this Complaint. Defendants' practices, as challenged, apply to current and potential members of the class depending upon the particular forms and purposes of their communications with the plaintiff.

125. The representative plaintiff will fairly and adequately protect the interests of the class. In respect to Counts Three, Four and Six, their claims are congruent and do not distinguish between the representative plaintiff's status as a prisoner and the free status of members of the class. The relief sought includes specific and general measures for relief of members of the class.

126. As alleged in this Complaint, the defendants have acted or refused to act on grounds generally applicable to the members of

the class, thereby making the final declaratory and injunctive relief sought appropriate with respect to the current and future members of the class as a whole.

VI. CAUSES FOR ACTION

Count One: Defendants' Denial of Due Process

127. In conspiring to impose, for non-penological and impermissible purposes and violative of other constitutional rights, conditions of confinement so unexpectedly and significantly in excess of plaintiff's judicially-imposed sentence, defendants purposefully and deliberately deprived plaintiff of his right to due process under the Fifth Amendment.

128. Defendants' practices in devising and imposing a unique and extraordinary prison regime deny plaintiff substantive and procedural due process rights protected by federal law, prison regulations and BOP policies and rules, notably the result or outcome of designation and classification required by 18 U.S.C. §§4042 and 4081 and those of 28 C.F.R.§§541, 524 and BOP P.S. 5100. In imposing atypical and significant hardships upon plaintiff, defendants have violated liberty interest rights protected by the Fifth Amendment.

129. Defendants' persistent use of pretext, sham hearings and pre-determined responses to grievances have denied plaintiff substantive and procedural due process rights protected by federal law, regulations, BOP policies and rules, and the Fifth

Amendment. Their use of false and retaliatory disciplinary proceedings, and the threat of disciplinary proceedings and retaliatory prison transfer in response to plaintiff's exercise of constitutional and legal rights violates the Fifth Amendment.

130. By conditioning plaintiff's release from Administrative Detention upon his surrender of his and class members' constitutional and legal rights, defendants violate both the specific rights demanded and their rights to due process under the Fifth Amendment.

131. In writing and promulgating 28 C.F.R. §501.2 for the purpose of denying plaintiff and the class members of their constitutional and legal rights for no legitimate governmental purpose, defendants violated their rights to due process. By permitting such denials and abridgements of their rights without meaningful due process, the regulation itself violates the Due Process Clause of the Fifth Amendment to the Constitution.

132. In the absence of any relationship to penological concerns, by failing to provide meaningful due process, by failing to distinguish between rights implicated by imprisonment and those not so implicated, and by abusing lawful and appropriate correctional powers possessed by the BOP to serve illegitimate and unlawful goals, defendants Deutch, Woolsey, Harris, Hawk and Cheney ordered and guided others in the pursuit of constitutionally impermissible purposes in a manner outside and contemptuous of the law and of the constitutional rights of

plaintiff and the class members.

Count Two: Defendants' Denial of Plaintiff's Eighth Amendment Rights

133. The conditions of confinement imposed on plaintiff by defendants are punitive in character, intent and effect and, in being imposed for no penological purpose and for no offense, constitute cruel and unusual punishment as prohibited by the Eighth Amendment.

134. Defendants' denial of adequate exercise, clothing and footwear, together with the denial of classification and the exercise of prison rights and privileges and the purposeful imposition of indefinite solitary confinement and isolative policies without correctional purpose, has subjected plaintiff to conditions of confinement falling below the contemporary standards required by the Eighth Amendment.

135. The physical and mental pain suffered by plaintiff due to his conditions of confinement have been deliberately, knowingly and wantonly inflicted by defendants without penological purpose and so violate his Eighth Amendment rights to be free of cruel and unusual punishment.

Count Three: Defendants' Violation of Plaintiff's First Amendment Rights

136. Defendants' concerted efforts to deny, restrict, and obstruct the rights of plaintiff and the members of the class to

free expression, association and petition, for impermissible and non-penological purposes, constitute a deliberate conspiracy to deprive them of their First Amendment rights.

137. Defendants' deliberately pretextual restrictions upon and interference with plaintiff's and the class members' rights to mail, telephone use and visitation under federal law, regulations and BOP policies and rules violate their rights under the First Amendment.

138. In punishing, retaliating against and restricting plaintiff's past and future exercise of his rights to free private and public speech in order to protect themselves and their policies from criticism, defendants have deliberately and knowingly violated his First Amendment rights.

139. Defendants' practices in restricting and manipulating press access to plaintiff for impermissible and non-penological purposes, constitute deliberate interference with the rights of plaintiff and the public to a free press protected by the First Amendment, and of those members of the class who have requested or conducted news media interviews with plaintiff.

Count Four: Defendants' Denial of Plaintiff's Fourth Amendment Rights

140. Defendants' seizure, reading, censorship and use of the correspondence and communications between plaintiff and members of the class, without penological purpose, reasonable cause or a

warrant, constitute unreasonable seizures and searches and invasions of privacy prohibited by the Fourth Amendment.

141. Defendants' practice of subjecting plaintiff to unnecessary and intrusive nude visual body cavity searches without correctional purpose or justification violates his rights to privacy under the Fourth Amendment.

Count Five: Defendants' Violations of Plaintiff's Rights of Access to the Courts

142. Defendants have denied, without penological justification, plaintiff's rights of meaningful access to the courts, to timely and confidential legal advice, to legal reference and study materials and to adequate means of preparing legal correspondence and documents. Defendants have refused to take reasonable affirmative measures to preserve his rights of access to the courts. These practices of defendants constitute the deliberate and knowing denial of plaintiff's rights of access to the courts under the First, Fifth and Sixth Amendments, and of the rights of those attorney members of the class who choose to afford plaintiff legal advice and assistance.

Count Six: Defendants' Denial of Plaintiff's Fourteenth Amendment Rights

143. Defendants' practices in denying plaintiff the relative liberty, access to prison privileges, programs and services enjoyed by prisoners in USP Allenwood's general population constitute unequal treatment unjustified by any penological

purpose and forbidden by the Fourteenth Amendment's due process and equal protection clauses. Defendants' practices regarding communications between plaintiff and members of the class violate their rights to equal protection of the law.

WHEREFORE, plaintiff respectfully requests the Court grant the following relief:

VII. RELIEF REQUESTED

A. Issue a declaratory judgment that:

1. Defendants knowingly and purposefully violated plaintiff's rights under the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution.

2. Defendants knowingly and purposefully violated the rights of the members of the class under the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution.

3. The promulgation and exercise by defendants of 28 C.F.R. §501.2 is unconstitutional in denying protected constitutional rights of convicts and free persons without valid and legitimate governmental purpose and without due process.

B. Issue an injunction to the Bureau of Prisons, its officers, employees and agents:

1. To cease the violation and evasion of federal law, prison regulations and BOP policies and rules in

relation to plaintiff's correctional status and treatment; to extend to plaintiff the full exercise of rights, privileges, services and benefits to which such laws, regulations, policies and rules may entitle him or for which he may be qualified.

2. To notify plaintiff promptly of the receipt and import of information originating from any federal office or source outside the Department of Justice which may result in any action affecting his correctional status and treatment; and to provide plaintiff, in the event any such action is intended, a due process, evidentiary hearing and the opportunity to be represented or assisted by counsel.

C. Issue an injunction to the Director of Central Intelligence, the CIA and its officers, employees and agents:

1. To cease any interference with, participation in, or exercise of authority over plaintiff's correctional status and treatment and to furnish any information of a law enforcement or correctional import to the Department of Justice in full conformity with established law, regulations and procedures.

2. To return to plaintiff and to members of the class any intercepted materials, writings, and copies kept or made of their oral and written communications; to advise them of any of its dissemination and use by the CIA or by others; to destroy any records, copies, logs

and other materials related to or derived from the interception of their communications; and to express their regret to members of the class for the violations of their constitutional rights.

3. To consult with plaintiff for the purpose of reaching an agreement on procedures and mechanisms for CIA prepublication review as provided for in plaintiff's plea agreement and to submit promptly the results of such agreement or consultation to the Court for review and approval.

D. Award plaintiff compensatory damages jointly and severally against defendants for the loss of relative liberty and access to prison programs, services and benefits, loss of wages, physical and mental pain and suffering resulting from solitary confinement, isolation and inadequate conditions and for the deprivation of plaintiff's rights to maintain communication and ties with family, friends and community and access to counsel and the courts.

E. Award compensatory damages jointly and severally against defendants to members of the class for the injuries suffered as a result of their deprivation of constitutional rights, loss of privacy and interference with their communications with plaintiff.

F. Award exemplary damages to plaintiff and members of the class jointly and severally against defendants Deutch, Woolsey, Studeman, Tenet, Harris, Hawk, Cheney and Holland.

G. Pursuant to 28 U.S.C. §1412(d)(1)(a), award plaintiff recovery of reasonable and necessary litigation expenses, including those incurred by attorneys assisting him as a pro se plaintiff.

H. Grant any other relief the Court may deem appropriate.

VIII. JURY TRIAL DEMANDED

Pursuant to Rules 3, 5 and 8, Fed.R.Civ.P., Plaintiff demands a trial by jury for all issues so triable.

Signed this 18th day of June, 1996

Aldrich H. Ames

Aldrich H. Ames, plaintiff
Reg. No. 40087-083
P.O. Box 3000
White Deer, PA 17887

Executed at USP Allenwood, Allenwood, PA.

I declare under penalty of perjury that the foregoing is, to the best of my knowledge and belief, true and correct.

Aldrich H. Ames

Aldrich H. Ames, plaintiff

Executed on June 18th, 1996

at USP Allenwood, Allenwood, PA.