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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **EASTERN DIVISION**

12
13 SIGMA BETA XI, INC.; ANDREW
M., by and through his next friend
14 DENISE M., on behalf of himself and
all others similarly situated; JACOB
15 T., by and through his next friend
HEATHER T., on behalf of himself
16 and all others similarly situated; J.F.,
by and through her next friend CINDY
17 MCCONNELL, on behalf of herself
and all others similarly situated,

18 Plaintiffs,

19 v.

20 COUNTY OF RIVERSIDE; MARK
21 HAKE, Chief of the Riverside County
Probation Department, in his official
22 capacity; BRYCE HULSTROM, Chief
Deputy of the Riverside County
23 Probation Department, in his official
capacity,

24 Defendants.
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CASE NO. 5:18-cv-01399

CLASS ACTION

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF,
NOMINAL DAMAGES**

(Violation of: First, Fourth, and
Fourteenth Amendments of the U.S.
Constitution; Article 1 §§ 2a, 3, 7,
and 13 of the California Constitution;
California Government Code
§ 11135)

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I. PRELIMINARY STATEMENT

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1. In Riverside County, California, school administrators have implemented an astonishingly punitive and ineffective law enforcement program. It places children under probation supervision for normal, childish behavior. By doing so, it systematically undermines our collective responsibility to give every child—regardless of race or ethnicity—the chance to stay in school and on track to succeed. Rather than supporting students to keep them engaged in school through mentorship and counseling, the County sweeps children into six-month terms of probation through its “Youth Accountability Team” (“YAT”) Program, for being “defiant,” “easily persuaded by peers,” or tardy to school; using “inappropriate language”; and behavior associated with grieving over the death of a parent. Every day that this probation program remains in place, we jeopardize the potential of hundreds of young people who are diverted away from educational success and toward the criminal justice system.

2. Riverside County, through the Probation office and its allies, cannot be permitted to target, ensnare, and discriminate against children in our schools in Riverside County, by stripping them of their constitutional rights and treating them like criminals. This needs to stop. Riverside County cannot be permitted to continue to manipulate and financially benefit from this program on the backs of Riverside’s children, especially Black and Latinx children.

3. Riverside County, through the collective efforts of its law enforcement agencies, has subverted the purpose of the law under which the YAT program was created by quietly sweeping tens of thousands of children and adolescents into punitive probation supervision for the “offense” of childish behavior. These children are put on contracts that impose a laundry list of onerous conditions that set young people up to fail and also cause them to fall deeper into the criminal system. As former Senior Probation Officer Debbie Waddell stated when describing the YAT

1 Program, “what we’re really doing is using this program to get them into the system
2 by fingerprinting and photographing them. We can search their homes any time we
3 want and work to obtain evidence against them so that when we can get ‘em, we can
4 really get ‘em!” Former Riverside County Deputy District Attorney Anthony
5 Villalobos followed these statements, explaining, “We can do all kinds of
6 surveillance, including wire taps on phones, without having to get permission from a
7 judge.”¹

8 4. Many children have fallen prey and suffered the constitutional
9 violations and abuse that prevails in Riverside County’s YAT program. Plaintiffs
10 Andrew M., Jacob T., and J.F., are students in Riverside County who are or have
11 been placed on probation through the Riverside County YAT program for alleged
12 school misconduct. Plaintiff Sigma Beta Xi is a non-profit organization providing
13 mentoring services to children of color in Riverside County. Numerous Sigma Beta
14 Xi mentees are or have been placed on YAT probation. They are among the over
15 four hundred children placed on YAT probation each year. Between 2005 and 2016,
16 12,971 children across Riverside County have been placed on YAT probation,
17 including 3,219 for non-criminal offenses. Children as young as first graders have
18 been referred to YAT.

19 5. Riverside County’s Probation Department operates YAT probation as
20 an additional and more punitive and invasive layer of school discipline. Defendants
21 refer to YAT as a diversion program, in which “informal” probation purportedly
22 allows children to avoid the harsh penalties of being tried in court. Avoiding deeper
23 contact with the juvenile justice system would be an appropriate objective for a
24 diversion program. A substantial body of research shows that increased contact with
25 the juvenile justice system is counterproductive and harmful to child development
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27 ¹ David L. Roberts, Psyche-Soul-ology, An Inspirational Approach to
28 Appreciating and Understanding Troubled Kids 67–69 (2007).

1 and rehabilitation. In practice, however, the “informal” nature of YAT probation
2 leaves children worse off. YAT probation keeps the harmful contacts with the
3 criminal system while eschewing procedural protections. Placing a child on YAT
4 probation includes none of the safeguards of judicial process, such as access to
5 appointed counsel, adequate notice of charges or the underlying facts, or any kind of
6 impartial decision maker. At the same time, it imposes consequences that are often
7 more severe than those that would be imposed by a court.

8 6. Rather than divert children, YAT draws more children into the criminal
9 system. Probation places YAT officers on site in public schools across Riverside
10 County and actively solicits referrals for things that would otherwise be addressed
11 routinely by the school and better resolved through supportive interventions.
12 Children are referred to Probation for alleged “behavior issues,” such as uttering
13 profanity, being easily influenced by peers, being late to class, and being
14 disrespectful. Defendants make use of an antiquated and unconstitutionally vague
15 law intended to regulate “incorrigible” children, Cal. Welf. & Inst. Code § 601, to
16 place children on terms of probation for these and other mundane school infractions.
17 In the absence of clear standards, enforcement of this law is both arbitrary and
18 discriminatory. Black and Latinx children in Riverside County are
19 disproportionately referred to probation for incorrigibility. One Black child was
20 placed on YAT probation for “pulling the race card.”

21 7. Placing children on probation under these circumstances is not only
22 counter-productive; it also violates their constitutional rights. Children subject to
23 YAT probation are required to comply with a long list of conditions, including
24 curfews and reporting absences to YAT, that set them up to fail. They are routinely
25 required to submit to drug testing and sign waivers permitting the search of their
26 home and persons in violation of their Fourth Amendment rights. They are also
27 required to comply with broad requirements not to associate with anyone not
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1 approved by Probation, infringing their First Amendment rights. Heavy-handed
2 supervision conditions like these have been shown to be ineffective and even
3 harmful.

4 8. Compounding the problems with YAT, Defendants place children on
5 YAT probation contracts through an entirely informal process that is void of basic
6 safeguards of procedural due process. Children ostensibly agree to submit to
7 conditions of probation that interfere with fundamental liberty under coercive
8 circumstances that preclude knowing, voluntary, or intelligent consent. Families also
9 ostensibly agree to comply under the same coercive conditions. The Defendants fail
10 to provide children and families with any formal notice of what children are charged
11 with or the underlying allegations, their legal rights, or the juvenile court process.
12 Instead, referral to YAT is communicated through a brief, informal, and inadequate
13 conversation by phone or in person at school, in which Defendants sometimes
14 blatantly misrepresent the nature of the YAT program and the consequences of not
15 acquiescing to YAT probation.

16 9. Knowing little except that they purportedly face charges in the criminal
17 system, children and their families enter a meeting with members of the YAT team,
18 which include probation officers and law enforcement, often armed, and can include
19 members of the prosecutor's office, without the information needed to refute the
20 allegations or otherwise advocate for themselves. These meetings are held in YAT
21 offices or local police stations. No semblance of an impartial decision maker is
22 present. Children are not informed of their rights, including the right to remain silent
23 or to speak with a lawyer. Instead they are led to believe that if they do not agree to
24 enter the YAT program, they may be referred to the District Attorney's office, even
25 when they are not accused of a criminal offense. Without their own advocate, and
26 facing their first involvement with the criminal system, children, as well as their
27 parents, are pressed to agree to a YAT probation contract. In these circumstances,
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1 children who often stand accused of as little as violating school rules are not able to
2 make voluntary, knowing, and intelligent decisions to accept YAT probation's
3 onerous conditions.

4 10. Beyond these constitutional violations, the injuries to children and their
5 families arising from YAT probation far outlive the child's six-month probation
6 contract. Through YAT, law enforcement officials compile and exchange a vast
7 amount of information about a child, including their school records, which may
8 include special education records, counseling records, details about their family
9 history including contact with the justice system, substance abuse, domestic
10 violence, and history with other social service agencies, and individual family
11 member information. This includes information that law enforcement would have
12 been prohibited from obtaining under the Fourth Amendment. Defendants retain and
13 use this vast quantity of sensitive information even after the successful completion
14 of a YAT contract. Indeed, even though Defendants claim that the YAT program is
15 informal and intended to keep children out of the juvenile justice system,
16 information obtained about a child through YAT may be used against them in future
17 juvenile court proceedings. Once a child has been involved with YAT, no matter the
18 basis, he or she is statutorily ineligible for any other diversion opportunity in the
19 future.

20 11. Plaintiffs Andrew M., Jacob T. and J.F. bring this action on behalf of
21 themselves and on behalf of a class of similarly situated children in Riverside
22 County who have been placed on YAT probation or who have been referred to YAT
23 but not yet placed on YAT probation. Defendants' operation of YAT infringes
24 Plaintiffs' constitutional and civil rights under California and federal law, including
25 their rights under the First, Fourth, and Fourteenth Amendments of the U.S.
26 Constitution, the California Constitution Article 1, sections 2a, 3, 7, and 13, and
27 California Government Code § 11135. Plaintiffs seek declaratory and injunctive
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1 relief from the ongoing injury to their rights. Plaintiff Sigma Beta Xi brings this
2 action as an organization whose mission has been frustrated by the operation of
3 YAT.

4 **II. PARTIES**

5 12. Plaintiff Andrew M. is a fifteen-year-old Black male who resides in
6 Moreno Valley, in Riverside County, California, and attends Valley View High
7 School in the Moreno Valley Unified School District. He appears in this action by
8 and through his mother and next friend, Denise M., and will submit a motion to
9 appear under a fictitious name. Denise M. resides with Andrew M. in Moreno
10 Valley, California, and is a competent and reasonable person who is dedicated to
11 acting in Andrew M.'s best interests and fairly and adequately representing him in
12 this litigation. Denise M. is willing to act as Andrew M.'s next friend in this
13 litigation and is sufficiently familiar with the facts of his situation.

14 13. Plaintiff Jacob T. is a sixteen-year-old white male who resides in
15 Moreno Valley, in Riverside County, California, and attends the Riverside County
16 Education Academy, a military academy associated with the Riverside County
17 Office of Education. He appears in this action by and through his mother and next
18 friend, Heather T., and will submit a motion to appear under a fictitious name.
19 Heather T. resides with Jacob in Moreno Valley, California, and is a competent and
20 reasonable person who is dedicated to acting in Jacob T.'s best interests and fairly
21 and adequately representing him in this litigation. Heather T. is willing to act as
22 Jacob T.'s next friend in this litigation and is sufficiently familiar with the facts of
23 his situation.

24 14. Plaintiff J.F. is a seventeen-year-old Black female who resides in
25 Moreno Valley, in Riverside County, California and attends Val Verde High School,
26 a continuation school in the Val Verde Unified School District. She previously
27 attended Rancho Verde High School. She appears in this action by and through her
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1 grandmother and next friend, Cindy McConnell. Cindy McConnell resides with J.F.
2 in Moreno Valley, California, and is a competent and reasonable person who is
3 dedicated to acting in J.F.’s best interests. Cindy McConnell is willing to act as
4 J.F.’s next friend in this litigation and is sufficiently familiar with the facts of her
5 situation.

6 15. Plaintiff Sigma Beta Xi, Inc. (“Sigma Beta Xi”), is a non-profit
7 community-based organization located in Moreno Valley, California, that provides
8 mentoring and leadership development services to approximately 220 children of
9 color in Riverside County who are struggling in school. These mentoring services
10 further Sigma Beta Xi’s mission “to establish strong families and communities by
11 building an organization of diverse men and women who will exemplify leadership
12 and professionalism based upon the principles of brotherhood, sisterhood,
13 excellence, endurance, wisdom, service, and unity.”

14 16. Defendant Riverside County (“County”) is a municipality within the
15 State of California, with capacity to sue and be sued. Riverside County Board of
16 Supervisors (“Board of Supervisors”) is the governing body of the County. The
17 Board of Supervisors is responsible for supervising all county officers, including all
18 agencies and departments responsible for implementing and administering the
19 Youth Accountability Program. Cal. Gov’t Code § 2530. The Riverside County
20 Juvenile Justice Coordinating Council (“Council”), led by the County Chief
21 Probation Officer, is responsible for developing a “comprehensive multiagency
22 juvenile justice plan” (“JJCPA Plan”), pursuant to California Government Code §
23 30061, through which it developed and continues to reauthorize and expand the
24 operation of the Youth Accountability Program. The Board of Supervisors is
25 responsible for approving the Council’s plan each year.

26 17. Defendant Mark Hake, sued in his official capacity, is the Chief
27 Probation Officer for the Riverside County Department of Probation. Defendant
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1 Hake is also the Chair of the Riverside County Juvenile Justice Coordinating
2 Council.

3 18. Defendant Bryce Hulstrom, sued in his official capacity, is the Deputy
4 Chief Probation Officer for the Riverside County Department of Probation.

5 19. Defendants are the officials responsible for operating the Youth
6 Accountability Program, enforcing California Welfare & Institutions Code sections
7 601 and 654, and implementing the policies, practices, and customs challenged in
8 this Complaint.

9 20. Defendants, acting under color of state law, performed, participated in,
10 aided and/or abetted the acts and omissions averred herein, proximately caused the
11 damages averred below, and are liable to Plaintiffs for the damages, injunctive, and
12 declaratory relief sought herein.

13 **III. JURISDICTION AND VENUE**

14 21. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 for violations
15 of rights secured under the First, Fourth, and Fourteenth Amendments to the United
16 States Constitution. Plaintiffs also bring state claims under Article I, sections 2a, 3,
17 7, and 13 of the California Constitution, and California Government Code
18 section 11135.

19 22. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
20 1331 and 1343, because the matters in controversy arise under the Constitution of
21 the United States. Additionally, pursuant to 28 U.S.C. § 1367, this Court has
22 supplemental jurisdiction over Plaintiffs' state law claims made under the California
23 Constitution and the California Government Code because such claims stem from
24 the same case or controversy arising from a common nucleus of operative fact.

25 23. This Court has personal jurisdiction over Defendants because they
26 operate within this district, and because Defendants' acts and omissions took place
27 within this district.

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1 24. Venue is proper in this federal district pursuant to 28 U.S.C. § 1391(b).
2 Defendants are located in the Central District of California and all of the acts and/or
3 omissions complained of herein have occurred or will occur in this district.
4 Additionally, Plaintiffs reside in this district.

5 **IV. GENERAL ALLEGATIONS**

6 A. Adolescent Development and Ineffective and Effective Interventions Across
7 the Education and Juvenile Justice Systems

8 25. In recent decades, emerging research on adolescent development has
9 prompted numerous reforms in juvenile justice and school-based approaches to
10 children’s behavior. Research documents the process of adolescent development as
11 marked by important changes in brain systems involving cognitive and behavioral
12 control and socioemotional functioning.² As the Supreme Court recognized, the
13 scientific research confirms “what any parent knows,” that children “are more
14 vulnerable or susceptible to outside pressures,” and, in in the context of interaction
15 with law enforcement, can be easily “overawe[d] and overwhelm[ed].” *J.D.B. v.*
16 *North Carolina*, 564 U.S. 261, 272–73 (2011) (internal alterations, quotations, and
17 citations omitted). Through adolescent development, children are unlikely to be
18 motivated by sanctions and deterrent strategies, whereas individualized supports and
19 positive incentives are more likely to help children to develop positive life skills.³

20 26. Recognizing these facets of adolescent development has important
21 implications for responding to children’s behaviors.⁴ Across education and juvenile
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23 ² National Research Council, *Reforming Juvenile Justice: A Developmental*
24 *Approach 2* (Richard J. Bonnie et al. eds. 2013), <https://doi.org/10.17226/14685>.

25 ³ Richard A. Mendel, Annie E. Casey Foundation, *Transforming Juvenile*
26 *Probation: A Vision for Getting It Right* 10 (2018),
<http://www.aecf.org/resources/transforming-juvenile-probation/>.

27 ⁴ National Research Council, *supra* note 2, at 2 (concluding that “[m]uch
28 adolescent involvement in illegal activity is an extension of the kind of risk

1 justice systems, it was once thought that harsher responses to children’s misconduct
2 were necessary to correct wayward children before they became hardened criminals
3 and to prevent a wave of “super predators.”⁵ Today, researchers and policy makers
4 recognize not only that this fear was misplaced, but also that these zero-tolerance
5 approaches actually fail to prevent future recidivism or disciplinary issues and can
6 have substantial negative impacts for children.⁶ As the Government Accountability
7 Office observes: “Students who face certain types of discipline in school may be
8 affected in profound ways that influence their lives as adults. . . . Research has
9 shown that students who are suspended from school lose important instructional
10 time, are less likely to graduate on time, and are more likely to repeat a grade, drop
11 out of school, and become involved in the juvenile justice system. The effects of
12 certain discipline events, such as dropping out, can linger throughout an individual’s
13 lifetime and lead to individual and societal costs.”⁷ Recognizing this, many states
14 and school districts are moving to reduce reliance on suspensions, expulsions, and
15 referrals to the justice system, relying more on supportive interventions and changes
16 to school culture with demonstrated positive effects.⁸

17 27. Within the juvenile justice system, research also demonstrates the need
18 to reassess prior approaches. Many interventions previously adopted in an effort to
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20 taking that is part of the developmental process of identity formation, and most
21 adolescents mature out of these tendencies”).

22 ⁵ *Id.* at 38–41.

23 ⁶ *See, e.g., id.* at 43–47.

24 ⁷ U.S. Government Accountability Office, *K-12 Education: Discipline Disparities*
25 *for Black Students, Boys, and Students with Disabilities* 1 (March 2018),
<https://www.gao.gov/assets/700/690828.pdf>.

26 ⁸ *See* National Center for Education Evaluation and Regional Assistance, *What*
27 *Works Clearing House: Behavior*,
28 <https://ies.ed.gov/ncee/wwc/FWW/Results?filters=,Behavior> (last visited June
25, 2018).

1 get tough on juveniles were not only misguided but ineffective and harmful to
2 children. “Research shows that juvenile justice systems can do more harm than good
3 by actively intervening with children who are low risk of reoffending.”⁹
4 Summarizing the research, the Counsel of State Governments (“CSG”) identifies a
5 number of “generally ineffective” juvenile justice programs, including: overcrowded
6 detention facilities, boot camps, curfews, and “scared straight and other ‘shock
7 therapy’ programs.”¹⁰ As with ineffective responses in the education system, these
8 forms of intervention focus on control, discipline, fear and surveillance. Instead,
9 CSG highlights successful approaches including the use of cognitive behavioral
10 therapy, engaging families and supportive mentors, focusing resources on promoting
11 positive behavioral change, and using developmentally informed means of holding
12 children accountable.¹¹ Recognizing the potential to do more harm than good, many
13 states and localities are adopting reforms to limit children’s contact with the system.

14 28. Juvenile probation programs have not received the same level of
15 attention as other facets of juvenile and criminal justice reform. However, as the
16 Annie E. Casey Foundation recently reported, “the research indicates that
17 surveillance-oriented probation is not an effective strategy for reversing delinquent
18 behavior, with insignificant effects on reoffending and especially poor results with
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20

21 ⁹ Elizabeth Siegle, et al., Counsel of State Governments Justice Center, *Core*
22 *Principles for Reducing Recidivism and Improving Other Outcomes for Youth in*
23 *the Juvenile Justice System* 9 (2014), [https://csgjusticecenter.org/wp-](https://csgjusticecenter.org/wp-content/uploads/2014/07/Core-Principles-for-Reducing-Recidivism-and-Improving-Other-Outcomes-for-Youth-in-the-Juvenile-Justice-System.pdf)
24 [content/uploads/2014/07/Core-Principles-for-Reducing-Recidivism-and-](https://csgjusticecenter.org/wp-content/uploads/2014/07/Core-Principles-for-Reducing-Recidivism-and-Improving-Other-Outcomes-for-Youth-in-the-Juvenile-Justice-System.pdf)
[Improving-Other-Outcomes-for-Youth-in-the-Juvenile-Justice-System.pdf](https://csgjusticecenter.org/wp-content/uploads/2014/07/Core-Principles-for-Reducing-Recidivism-and-Improving-Other-Outcomes-for-Youth-in-the-Juvenile-Justice-System.pdf).

25 ¹⁰ *Id.* at 17 (citing Mark Lipsey, et al., *Improving the Effectiveness of Juvenile*
26 *Justice Programs: A New Perspective on Evidence-Based Practice* (2010),
27 [https://cjjr.georgetown.edu/wp-](https://cjjr.georgetown.edu/wp-content/uploads/2015/03/ImprovingEffectiveness_December2010.pdf)
[content/uploads/2015/03/ImprovingEffectiveness_December2010.pdf](https://cjjr.georgetown.edu/wp-content/uploads/2015/03/ImprovingEffectiveness_December2010.pdf)).

28 ¹¹ Siegle et al., *supra* note 9, at 18, 36–40.

1 youth at low risk of re-arrest.”¹² Moreover, as Casey Foundation researchers
2 summarize:

3 Studies dating back decades have found that many or most diversion
4 program participants are accused of minor misbehaviors, which would
5 be handled more appropriately with a warning—despite a large body of
6 research showing that this “net-widening” dynamic of diversion
7 programs sometimes does more harm than good.¹³

8 Instead, students accused of school misbehavior or accused of low-level offenses
9 should be referred to appropriate service providers.¹⁴ Probation officers should have
10 no role in overseeing diverted children and rather should carry smaller caseloads of
11 children convicted of crimes, and focus on positive behavior change for these
12 children.¹⁵

13 29. The use of counterproductive and harmful interventions has greater
14 consequence for children of color, who are more likely to be subject to punitive
15 school discipline and overrepresented across the juvenile justice system. Research
16 evidences substantial racial disparities in school discipline that are “not explained by
17 more serious or more frequent misbehavior by children of color.”¹⁶ Disparities in
18 school discipline are most pronounced for offenses like “defiance” or “disrespect,”
19 where school staff must rely on their own subjective interpretations to enforce
20 school rules.¹⁷ Racial disparities carry over to and persist within the juvenile justice
21 system. For example, one study of the narrative reports of probation officers found

21 ¹² Mendel, *supra* note 3, at 7.

22 ¹³ *Id.* at 13.

23 ¹⁴ *Id.* at 27.

24 ¹⁵ *Id.* at 31.

25 ¹⁶ Siegle et al., *supra* note 9, at 4 & n.7.

26 ¹⁷ Russell J. Skiba et al., *Race is Not Neutral: A National Investigation of African*
27 *American and Latino Disproportionality in School Discipline*, 40 *School Psych.*
28 *Rev.* 1, 101 (2011),
<http://www.indiana.edu/~equity/docs/Skiba%20et%20al%20Race%20is%20Not%20Neutral%202011.pdf>.

1 that “probation officers describe black and white youths differently, referring to
 2 negative personality traits for black youths and more to negative environmental
 3 influences for whites,” and that “black youths were judged to have a higher risk of
 4 reoffending.”¹⁸ Similarly, white youth are more likely to use marijuana, but Black
 5 youth are more likely to be arrested for marijuana possession.¹⁹ To address racial
 6 disparities in the juvenile criminal system, CSG recommends practices that
 7 “promote objective decision making,” such as improving the quality of and access to
 8 defense attorneys, training on recognizing and overcoming explicit and implicit bias
 9 and becoming more culturally competent and continued oversight of the system.²⁰

10 B. History and Structure of the Youth Accountability Team Program

11 30. The California Juvenile Justice Crime Prevention Act (“JJCPA”) was
 12 passed in 2000 to provide funding for programs “demonstrated to be effective in
 13 reducing delinquency . . . including prevention, intervention, suppression, and
 14 incapacitation.”²¹ When the JJCPA was passed, California, like much of the country,
 15 was focused on increasing criminal penalties and expanding law enforcement
 16 surveillance and control over children. Today, however, state and local actors
 17 recognize that their “tough on crime” approach left California hemorrhaging money
 18 on ineffective and counterproductive programs while ignoring the needs and

19 _____
 20 ¹⁸ George S. Bridges & Sarah Steen, Racial disparities in official assessments of
 21 juvenile offenders: Attributional stereotypes as mediating mechanisms, 63 Am.
 Soc. Rev., 554, 561 (1998).

22 ¹⁹ Cylan Matthews, *The Black/White Marijuana Arrest Gap*, In *Nine Charts*,
 23 WASHINGTON POST (June 4, 2013),
 24 [https://www.washingtonpost.com/news/wonk/wp/2013/06/04/the-blackwhite-
 marijuana-arrest-gap-in-nine-charts/?utm_term=.1efda39c3684](https://www.washingtonpost.com/news/wonk/wp/2013/06/04/the-blackwhite-marijuana-arrest-gap-in-nine-charts/?utm_term=.1efda39c3684).

25 ²⁰ Siegle et al., *supra* note 9, at 41.

26 ²¹ The Juvenile Justice Crime Prevention Act, Cal. Gov’t Code, §30061(b)(4)(B)(i)
 27 (2000). The Act was originally named the Schiff-Cardena Crime Prevention Act
 28 of 2000. See [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_1901-
 1950/ab_1913_bill_20000908_chaptered.html](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_1901-1950/ab_1913_bill_20000908_chaptered.html).

1 characteristics unique to children and failing to provide them the tools, resources,
2 and education they needed to succeed. The legislature has since passed a number of
3 bills to reform the juvenile justice system to promote rehabilitation and protect
4 children’s constitutional rights.²²

5 31. The JJCPA, which requires county programs to be “demonstrated to be
6 effective” and include a “continuum of responses,” Cal. Gov’t Code §
7 30061(b)(4)(A)(iii), (b)(4)(B)(i), provides sufficient flexibility to permit local
8 governments to similarly reform their juvenile justice practices in light of
9 developing research and evolving best practices and to better protect juvenile rights.
10 However, Riverside County continues to use millions of dollars in JJCPA funds to
11 operate a program employing tactics shown to be counterproductive and even
12 harmful to children.

13 32. In 2001, the County adopted a Juvenile Justice Plan that included the
14 creation of the “Youth Accountability Team” Program run by the Department of
15 Probation. The Youth Accountability Team Program has operated consistently since
16 2001 as the most substantial component of the County JJCPA Plan. The Department
17 of Probation runs YAT probation. Law enforcement agencies across the county as
18 well as the District Attorney’s Office are also parties to a joint MOU setting out
19 their roles in operating YAT.

20 33. YAT purports to operate pursuant to California Welfare & Institutions
21 Code section 654, which provides:

22 In any case in which a probation officer, after [an investigation]
23 concludes that a minor is within the jurisdiction of the juvenile court or
24 will probably soon be within that jurisdiction, the probation officer
25 may, in lieu of filing a petition to declare a minor a dependent child of
the court or a minor or a ward of the court under Section 601 . . . and

26 ²² See *California Legislature Approves Juvenile Justice Bills to Update Miranda*
27 *Rights, Allow Parole for Youthful Offenders*, CAL. STATE SENATE (Sept. 15,
28 2017), [http://sd33.senate.ca.gov/news/2017-09-15-california-legislature-
approves-juvenile-justice-bills-update-miranda-rights-allow](http://sd33.senate.ca.gov/news/2017-09-15-california-legislature-approves-juvenile-justice-bills-update-miranda-rights-allow).

1 with consent of the minor and the minor’s parent or guardian, delineate
2 specific programs of supervision for the minor, for not to exceed six
3 months

3 34. Section 654 permits the creation of a program of diversion from formal
4 adjudication and the presumably more serious consequences applicable therein. A
5 child is only eligible for a program of supervision under Section 654 for a first-time
6 offense, and is ineligible if she has already participated in a program under Section
7 654. Cal. Welf. & Inst. Code § 654.3. Children accused of certain offenses are
8 presumed ineligible. *Id.*

9 35. YAT targets children “ages 12-17 years old who are purportedly
10 displaying *pre-delinquent* and delinquent behavior” (emphasis added). This
11 effectively brings more children, not fewer, into the juvenile justice system, relying
12 on probation supervision to take the place of school-based interventions.

13 36. YAT officers aggressively solicit referrals for children considered to be
14 “at risk,” which YAT broadly defines to include “family conflict, mental health,
15 school adjustment, or gang involvement.” As one school district explained in
16 responding to a public records request, “YAT . . . look[s] for students who have
17 been involved in the first stages of school discipline, might have poor or failing
18 grades, and are showing initial signs of moving toward more at-risk behaviors.”
19 These children, who have not committed any criminal offense, are then placed on a
20 regimented probation contract.

21 37. As Defendants have described in presenting the YAT probation
22 program to school districts, YAT probation contracts “contain terms and conditions
23 similar to those issued by the Courts to juveniles placed on formal probation,” such
24 as curfew, weekly check-ins, home searches, and community service, and last for six
25 months. “Cases may be terminated and forwarded to the YAT District Attorney at
26 any time for possible adjudication in Juvenile Court due to non-compliance or
27 violations,” and “[w]arnings, community restriction, and increased or additional
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1 terms may be added to an existing YAT contract at any time for non-compliance.”
2 These terms mean that a school rule violation can be viewed by Defendants as cause
3 to prosecute a child. The YAT probation contract likewise ominously states that
4 “any violation of the terms and conditions may be grounds for referring the matter to
5 the District Attorney’s Office for prosecution,” even when the underlying alleged
6 conduct is not criminal.

7 38. Each year, most of the County’s JJCPA funds are allocated to YAT.
8 For fiscal year 2017–2018, the County proposed budget allocated \$10,627,404 to
9 YAT, ninety-seven percent of the County’s JJCPA budget. The vast majority of
10 these funds are allocated to pay the salaries of Probation officers, law enforcement,
11 and District Attorneys’ office employees assigned to work with the YAT program.
12 Over a span of eight years, between fiscal years 2009–2010 and 2016–2017, the
13 average percentage of JJCPA funds allocated to salaries and benefits was 82.64%,
14 while community-based organizations received an average of 8.10% of funds.
15 According to the terms of the MOU’s, school districts also donate office space and
16 supplies, like telephones, to YAT officers operating within their schools.

17 39. YAT is currently established in seventeen school districts in Riverside
18 County. In 2015, the most recent year of complete data available to Plaintiffs, 1,505
19 children were referred to YAT and 915 were placed on probation. Defendants have
20 actively sought to expand the number of young people placed on YAT probation,
21 including by expanding their presence from high schools into middle schools in
22 Riverside County. In 2016, the Department of Probation itself reported that it had
23 launched an effort to increase referrals, “resulting in a 189% increase in the referrals
24 received monthly.”

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1 C. Defendants Use an Unconstitutionally Vague Law and Vague Referral
2 Criteria to Funnel Children into YAT Probation for Common School
3 Disobedience and Symptoms of Trauma

4 40. Through YAT, Defendants actively solicit and facilitate referrals from
5 schools, including for non-criminal behaviors, and rely on the vague terms of an
6 antiquated incorrigibility law and an informal process to place children on terms of
7 probation supervision that infringe their constitutional rights, frequently exceed the
8 maximum penalties contemplated by the legislature, and come with other harmful
9 direct consequences.

10 41. Defendants frequently place children under onerous probation
11 supervision not on the basis of the commission of any criminal offense, but merely
12 adolescent misbehavior. A review of the first five years of YAT’s operation found
13 that at least seventy-six percent of referrals to YAT were made for status offenses—
14 things that are only offenses because of a person’s age—and recognized that “[i]n
15 the past, the [Juvenile Justice] system or the community did not actively engage
16 these youth.”

17 42. Defendants hide behind the vague terms of California Welfare &
18 Institutions Code section 601 (“Section 601”) to inveigle children as young as
19 eleven years old into YAT and the criminal system for a wide range of typical
20 school misbehavior and even for reasons that have nothing to do with accusations of
21 misconduct. For example, some children have been referred to YAT because they
22 have identifiable mental health needs, are exhibiting symptoms of trauma, or are
23 simply showing signs of adolescent immaturity.

24 43. Section 601 makes it an offense for a juvenile to “persistent[ly] or
25 habitual[ly] refuse[] to obey the reasonable and proper orders or directions of school
26 authorities.” This antiquated provision dates to the earliest codification of California
27 law, and to a time when legislative drafters presumed the state’s wide latitude to
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1 regulate the lives of juveniles, standing in the stead of their parents. The Supreme
2 Court has since made clear that juveniles have constitutional rights, including the
3 right to due process, which the state must respect. *See In re Gault*, 387 U.S. 1
4 (1967). The terms of Section 601 cannot, therefore, remain unchanged and open-
5 ended.

6 44. Section 601 provides no further definition of the term “persistently or
7 habitually,” leaving the average child or adult to guess at how many instances, or
8 how long a period of disobedience, might trigger the law’s invocation. Moreover,
9 the law provides no further guidance in interpreting the term “reasonable and proper
10 orders or directions.” Instead, enforcement authority is delegated to school staff,
11 meaning that a teacher can elevate a violation of school rules to a justice system
12 referral on the basis of his or her subjective judgment. The vague terms of these
13 laws invite arbitrary and discriminatory enforcement. The discretion to interpret
14 these vague terms invites implicit and explicit bias in referrals and outcomes
15 impermissibly based on the race and disability status of the child.

16 45. Probation takes full advantage, assuming an unfettered grant of
17 authority. It actively solicits and requires referrals to YAT from school staff
18 pointing to the terms of an MOU they created. Probation encourages referrals for
19 non-criminal, mundane childhood behavior, including: “failure/refusal to follow
20 directives (actively or passively): at school (e.g. talking back to security guard) or at
21 home (e.g. curfew, chores, telephone use)”; “general and repetitive disrespect
22 toward family or school authority figures (incorrigible)”; and “anti-social behavior
23 that disrupts classroom activity—talking during class, refusal to do work,
24 prohibiting others from learning, walking out of class, talking back to the teacher,
25 etc.—as reported by the teacher.”

26 46. A 2015 YAT Technical Report identifies possible “charges” for YAT
27 referrals to include, *inter alia*, truancy, defiance/incorrigibility, and “mental issues.”
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1 “Mental issues” is further defined in YAT’s template entry assessment form to
2 include “suicide attempts” and “treatment/problems.” The standard referral form
3 created by YAT includes similar though not entirely consistent “problem areas” and
4 “mental health issues” that school staff or other referrers can select for Riverside
5 County to then funnel children in crisis into the YAT program and the criminal
6 system.

7 47. Conflating childhood behavior with criminal conduct, Defendants fast-
8 track and reroute children into criminal supervision who are processing deep grief or
9 trauma, displaying signs of disability, or simply having an off day focusing and
10 following directions. Indeed, children have been referred to YAT for:

- 11 • “behavior issues” (Cambodian elementary school student);
- 12 • “student behavior modification” (Latino seventh grader);
- 13 • “is easily persuaded by peers, is often late to school and classes”
14 (Latina eighth grader);
- 15 • “engaged in profanity and willfully defied authority” (Black eighth
16 grader);
- 17 • “caus[ing] daily disruptions by arriving late to nearly all of her classes”
18 (Latina seventh grader);
- 19 • “poor attendance/grades. Lack of motivation. Mother has not been
20 involved” (Native American eighth grader);
- 21 • “disrespectful towards peers and staff. Habitual foul language, refuses
22 to follow rules” (Latino seventh grader with likely disability); and
- 23 • “caused daily classroom disruptions. Uses inappropriate language and
24 refuses to do classwork” (Black sixth grader).

25 48. As these referrals demonstrate, an alleged violation of Section 601 is
26 assessed not by any specific metric, but by an indeterminate and wholly subjective
27 assessment of a student’s behavior. The citations included on Probation contracts are
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1 no clearer. For example, Defendants have placed children on probation contracts for
2 such vague and innocuous reasons as:

- 3 • “incurable minor” (Latina eighth grader from Mountain View Middle
4 School, Beaumont Unified School District);
- 5 • “Suspension, Defiance, Disruptive Behavior, Previous MH
6 Intervention” (white eighth grader from Riverside Unified School
7 District);
- 8 • “601 (Defiance and Disruptive Behavior)” (Latino eighth grader from
9 Mira Loma Middle School, Jurupa Unified School District); and
- 10 • “school discipline” (Latino fifth grader from Dr. Carreon Jr. Academy,
11 Desert Sands Unified School District).

12 49. Often, Probation merely cites the catch-all phrase “601 WIC,” with no
13 further specification, as the basis for placing children on YAT probation. Other
14 times, Probation omits any reference to Section 601 or any other code section and
15 instead cites “school discipline,” “grades / behavior,” “disruptive school behavior
16 and bullying,” and other school-related behavior on a YAT probation contract,
17 adding to the uncertainty. Since 2005, Probation has swept into its supervision more
18 than 12,971 children who had no previous history of court or probation involvement
19 merely because Probation deemed the child to be “at risk” for future misbehavior
20 and thus “soon to be within the [juvenile court’s] jurisdiction” under Section 654.

21 50. The terms of Sections 601 permit not only an arbitrary, but also a
22 racially discriminatory exercise of law enforcement power. For example, one
23 referral to YAT for an eleven-year-old sixth grader was in part based on the child’s
24 perceived “use [of] ‘race card’ against [school] staff,” suggesting that students who
25 challenge racial discrimination by school staff may be deemed offenders and “at
26 risk” of becoming criminals. In Riverside County, and across the state, Black
27 children are more likely than others to be charged with violating Section 601.

1 Between 2003 and 2016, Black children in Riverside County were two and a half
2 times more likely than their white counterparts to be referred to YAT under Section
3 601. Latinx children were also almost one and half times more likely than their
4 white peers to be referred to YAT under Section 601. Riverside County’s racial
5 discrimination and abuse parallels findings in the context of school discipline, where
6 racial disparities are most prevalent in discipline for subjectively-defined offenses,
7 such as “disrespect.”

8 51. During the 2015–16 school year, Black children were referred to YAT
9 at nearly three times their rate of enrollment countywide, and Black boys in
10 particular were referred to YAT at *over* three times their rate of enrollment. About
11 thirty-two percent of Riverside County students are Latinx, but Latinx students were
12 more than thirty-nine percent of all YAT referrals during the 2015–16 school year.
13 A significantly greater proportion (thirty percent) of referrals for Latinx students
14 were for the lowest-level, Section 601 offenses (defiance, incorrigibility, curfew and
15 truancy), as compared to students in other racial groups.

16 52. Riverside County persistently abuses Section 601, ensnaring children
17 experiencing grief, trauma, mental health issues, or behavioral disabilities and
18 subjecting them to probation supervision and the criminal system. For example, one
19 sixth grader was targeted for YAT after a conversation between an administrator and
20 the student’s parent revealed that the child was experiencing “[a]nger/grief issues[,
21 is s]eparated from his father[, and] his [u]ncle died last year.” A Black seventh
22 grader who was experiencing “grief over loss of [her] baby sister” was similarly
23 referred to YAT probation for “grief, bullying, and instigation.” A middle school
24 principal who knew that an eleven-year-old boy was homeless nonetheless sent the
25 child to Probation because he was “frequently absent from school.” Under the vague
26 terms of the law, the trauma and hardship associated with death and experiencing
27 homelessness can be cited to sweep children into an unconstitutional program that
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1 turns their normal, age-appropriate reaction to difficult circumstances into
2 “offenses,” sending them into a pipeline to the criminal justice system.

3 D. Defendants Disregard Fundamental Due Process Protections in Placing
4 Children on Probation

5 53. Defendants have targeted and funneled thousands of children who
6 would not otherwise be drawn into contact with the juvenile system, imposed
7 onerous demands, and abused outmoded and vague statutory provisions. Further,
8 Defendants, as a policy, practice, or custom, operate YAT in a manner that violates
9 fundamental tenets of procedural due process, inducing “consent” that is not
10 voluntary, knowing, or intelligent and is instead made without adequate notice or the
11 advice of counsel and absent oversight or a meaningful opportunity to be heard by
12 an independent arbitrator.

13 54. Defendants authorize, approve, and encourage officers to use as little as
14 a phone call to notify children and their families of referral to YAT. This practice
15 fails to ensure that children have sufficient notice of the allegations against them and
16 the consequences they face. A child’s referral to the YAT program initiates a one-
17 sided process controlled by Probation that operates without procedural safeguards
18 that are fundamental to a lawful and credible justice system.

19 55. Even the most substantial form of notice contemplated by Defendants,
20 a letter, falls far short of what due process requires. The letter is printed on
21 Probation letterhead and indicates that the child was referred to YAT probation,
22 which is described as a “diversion program.” Because a referral can be made by
23 anyone, for any reason, this may be the first time that a child and her family learn
24 that she is accused of committing an offense or being vaguely “at risk” of
25 committing a criminal offense. Information describing the reason for referral is
26 limited to at most a legal code citation and a police report number, if one exists. The
27 letter fails to provide the text describing the law the child allegedly violated, or any
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1 description of the conduct the child allegedly engaged in. This complete failure of
2 notice places the burden on children and their families to figure out why they are
3 required to meet with Probation.

4 56. Probation’s letter also fails to provide any explanation of the child’s
5 rights, the juvenile court process, an explanation of the requirements of YAT
6 probation, or the consequences that follow from being placed on YAT probation.
7 Noticeably absent from the letter is any statement informing the child and the
8 child’s family that YAT probation is entirely voluntary. Instead, the terms of the
9 letter indicate that compliance is required. The letter sometimes includes language
10 indicating either that an appointment has been scheduled for a particular date and
11 time, or that the parent “must contact [the probation officer] as soon as possible” to
12 schedule an appointment. Both of these provisions convey that meeting with the
13 probation officer is required. The probation officer may also include a warning in
14 the letter that if a family fails to meet the appointment or response deadline, “the
15 matter may be referred to the Riverside County District Attorney’s Office for the
16 filing of criminal charges in Juvenile Court.”

17 57. Moreover, the notice letter is written in English. Apparently
18 recognizing that many families in Riverside County speak Spanish as a first
19 language, the letters also state in Spanish: “If you do not speak English, please bring
20 a member of your family or a friend to be your interpreter.” The letter does not offer
21 to provide a translation of the letter or to provide an interpreter for the appointment.
22 The failure to provide translation only adds to the power imbalance and the inability
23 of the child, and the family, to comprehend the circumstances and make an informed
24 choice regarding YAT probation.

25 58. In other instances, and consistent with policy, practice, and custom,
26 Probation fails to provide any formal written notification to a child and the child’s
27 family indicating that the child has been referred to YAT. Instead, Defendants
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1 inform the family by phone or other informal means. When notice is provided
2 during a phone call or by other informal means, it fails to provide the most basic
3 assurances of fair process. There are serious consequences if a family does not
4 understand or fails to remember details communicated solely over the phone.
5 According to Defendants, failure to attend a meeting could result in criminal charges
6 or a determination that the family is ineligible for diversion. At this critical juncture,
7 notice by phone is wholly insufficient.

8 59. Children and their families thus arrive at the YAT probation meeting
9 misled and believing that they face criminal charges and that they are required to
10 meet with a probation officer, but without information about the charges, the
11 juvenile court process, the terms and consequences of YAT probation, or their legal
12 rights. In addition to the informational asymmetry, children who have never been in
13 trouble with the law before walk into a law enforcement setting and are surrounded
14 by several experienced, sometimes armed, law enforcement officers. These meetings
15 are held at YAT offices or police departments and are attended by probation officers
16 and police officers, who may be visibly armed. Representatives of the District
17 Attorney's Office are also actively involved in preparing for YAT contract meetings
18 and can attend. In addition to the lack of adequate notice, children are also without
19 appointed counsel to advise them.

20 60. During the meeting, probation officers present children and their
21 families with a YAT probation contract requiring compliance with numerous
22 conditions to purportedly avoid the possibility of prosecution. Riverside County,
23 however, does not prosecute Section 601 petitions, meaning that acquiescence to
24 YAT in exchange for an agreement not to prosecute is entirely misleading, if not
25 outright false. Moreover, children, and families, are not informed that the conditions
26 of YAT probation are often more onerous than those they would face if they did not
27 agree to YAT probation. For example, a first time possession of marijuana at school,
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1 if pursued, is punishable under California law by four hours of counseling and ten
2 hours of community service, and no form of probationary supervision is authorized
3 by the law. Cal. Health & Safety Code § 11357(d). However, children have been
4 placed on probation supervision with many additional onerous terms for the same
5 offense.

6 61. Surrounded by law enforcement, and lacking basic information and
7 advice of counsel, a child is presented in this meeting with a critical decision: if she
8 declines to accept probation supervision at this moment, according to Defendants,
9 she may be required to go to court and may not be offered diversion again. If she
10 accepts YAT probation, she submits to onerous terms of supervision. The decision
11 carries consequences of which the child will likely be unaware, seriously impairing
12 her ability to evaluate her options.

13 62. In these circumstances, a child cannot voluntarily, knowingly, or
14 intelligently agree to YAT probation. Nor could their families or any adult.
15 Defendant officers obtain acquiescence to YAT probation through a process marked
16 by a complete lack of procedural safeguards and a coercive and intimidating
17 environment.

18 63. Under these conditions, the likelihood that Plaintiffs' constitutional
19 rights will be violated is clear. Federal and state constitutional laws, as well as state
20 statutory laws, protect various children's rights implicated by the YAT probation
21 placement procedures and the determination of whether to choose YAT probation or
22 defend against allegations in court. These include liberty and privacy interests as
23 well as the right to a speedy trial and the right to remain silent. The right to counsel
24 is also afforded to California Juveniles in all proceedings under California Welfare
25 & Institutions Code sections 601 and 602. Cal. Welf. & Inst. Code § 634. Despite
26 the clear implications of a decision to accept YAT probation on these firmly
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1 established rights, Probation has no policies in place to ensure that officers respect
2 these rights or advise children regarding their rights.

3 E. YAT Contract Conditions Exceed Statutorily Authorized Consequences and
4 Unconstitutionally Intrude on Constitutional Rights

5 64. When a child acquiesces to participate in YAT, she receives a six-
6 month probation contract memorialized on a standard, pre-filled form, which
7 includes a checklist of default terms of YAT probation supervision. Additional
8 terms may be checked or amendments made during the meeting. The terms of YAT
9 probation are numerous, including required compliance with curfew, weekly check-
10 ins with probation, attendance at weekly classes, requirements to obey parents,
11 probation, and school authorities, notifications of any absence or late arrival at
12 school, drug testing, requirements to attend a corrections facility tour, and other
13 terms. These terms are not drawn based on a nexus with the underlying offense.

14 65. Pursuant to policy, practice, and custom, YAT probation imposes terms
15 that are often more onerous and invasive than even court-ordered probation for
16 similar offenses. The standard YAT probation contract permits YAT officers to
17 impose broad search conditions stating: "I will submit to search/test of my
18 person/vehicle/premises upon request of the Probation Officer or YAT member."
19 While this term encompasses testing, in some cases, a drug testing requirement is
20 also included as a separate line. Children, and their families, are not informed that
21 this term constitutes a waiver of their Fourth Amendment Rights. This term thus
22 allows Defendants to assert broad authority to search and surveille children and their
23 families, without even a determination of probable cause and without judicial
24 oversight at any point in the process.

25 66. The Fourth Amendment prohibits the imposition of such broad search
26 conditions without a conviction or adjudication of delinquency. California Welfare
27 & Institutions Code section 654, cited by Defendants, does not extend authority to
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1 impose search conditions. However, a blanket search term is included in
2 Defendants' standard YAT probation contract. Defendants have no standard advisals
3 of children's Fourth Amendment rights. Children are presented with these terms, in
4 the context of the highly imbalanced YAT contract meeting, and purportedly
5 broadly waive their Fourth Amendment rights by signing the probation contract.
6 Waiver in these circumstances is not and cannot be voluntary, knowing, or
7 intelligent.

8 67. Pursuant to policy, practice, and custom, YAT team members also
9 regularly remove children from classes to conduct "check-ins" during the school
10 day. These check-ins interfere with a child's school engagement and are not
11 scheduled around the student's or school's needs, but on the basis of the YAT team
12 members' schedule. During these impromptu check-ins, YAT team members
13 question children about topics including their social life, grades, and classroom
14 subjects. While check-ins occur on a weekly basis, children do not always see the
15 same YAT officer and have little understanding of the function of these check-ins.

16 68. The standard YAT probation contract also includes overbroad
17 directives that chill and infringe upon the child's First Amendment rights to
18 expressive association, including prohibiting association with anyone "not approved
19 of by YAT" and requiring that the child "have no negative contact with anyone,"
20 with no further definition of the nebulous term "negative contact."

21 69. YAT probation terms also commonly require a child to write an
22 apology letter about the alleged reason for referral. These letters are likely to include
23 admissions and other statements that could be used against a child in court.
24 However, Defendants do not advise children of their rights. Nor do they provide any
25 explanation of how these letters will be stored or used, and no assurance regarding
26 whether the letters will be treated as confidential. YAT officers obtain a substantial
27 amount of additional personal and sensitive information about the child and their
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1 families and provide no assurance regarding how they will use and store this
2 information or under what circumstances the information may be disclosed to
3 others.

4 F. Privacy Implications

5 70. YAT probation interferes with children’s privacy. Defendants collect a
6 wide array of private information about a child, such as: education records,
7 counseling records, risk assessments, letters of apology, photographs, records of
8 supervision contacts and home searches, and drug tests. YAT officers including law
9 enforcement and the District Attorney’s office engage in “an ongoing sharing of
10 information” compiled about children through the course of YAT probation.
11 Information may also be shared with other law enforcement agencies, such as gang
12 task force officers.

13 71. YAT requests that schools making referrals provide “Discipline
14 Records; Transcripts/Grades; and Attendance Records.” These records are supplied
15 without parent or student consent, despite the fact that these records are subject to
16 close confidentiality rules under the Family Educational Records and Privacy Act,
17 20 U.S.C. § 1232g. In Murrieta, for example, YAT officers are given direct access
18 to the school student records database. Information is also compiled from other law
19 enforcement and social services data sources.

20 72. During the YAT probation contract meeting, YAT officers ask families
21 questions about “[w]ho lives in the home” including “names and date of birth or
22 age,” drug/alcohol abuse, domestic violence, probation or parole, weapons and
23 ammunition, and any criminal history. They also conduct a risk assessment, using a
24 standardized form asking questions about “[l]ack of knowledge by parents or
25 guardians of minor’s friends and activities” and a lack of age-appropriate rule-
26 setting; whether there are “chronic discipline problems”; whether the minor has
27 engaged in “substance abuse multiple times, beyond experimentation”; whether
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1 “any relative with whom the minor associates with [sic] has . . . a prison record” or
2 “pending an adult or juvenile adjudication”; and whether the minor “associates with
3 a gang or tagging crew.” Children are also required to sign a release granting YAT
4 officers access to highly personal counseling records.

5 73. Children referred to YAT probation are assigned a Central Intake
6 Division (“CID”) number, which is used to track information about the child in
7 Probation’s Juvenile Adult Management (“JAMs”) database. Upon information and
8 belief, other agencies associated with YAT probation also record and maintain
9 information about children in their own databases, using the same CID number or
10 another unique identifier for the child. The files associated with a child’s CID
11 number remain even if the child is not ultimately placed on YAT probation.
12 Probation and other YAT officers create field contact notes describing their contacts
13 with children through YAT. These notes are then entered into the child’s case file.

14 74. Defendants provide no explanation of the types of information gathered
15 and retained on children who are placed on YAT probation. Nor do they provide
16 information about how it will be stored, and what if any confidentiality protections
17 are provided.

18 75. Defendants do not uniformly provide children placed on YAT
19 probation with information about sealing records, or inform children of the
20 possibility that records will be maintained by Probation and other agencies
21 associated with YAT probation.

22 G. Future Consequences of Placement on YAT Probation

23 76. Beyond the immediate and gross violation of children’s constitutional
24 and civil rights, probation supervision through YAT produces numerous additional
25 injuries. Entry into a YAT probation contract fast-tracks future contact with the
26 criminal system and increases the severity of consequences. Once a child has gone
27 through the YAT probation, she is presumed ineligible for diversion programs in the
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1 future. Children are deprived of the “second chance” that the Welfare and
2 Institutions Code contemplates for first-time, low-level offenders, and are instead
3 diverted *into* the justice system for non-criminal behavior through YAT probation.
4 Failure to complete YAT successfully can also be used against the juvenile in
5 sentencing in any future juvenile court proceeding.²³

6 H. The YAT Probation Program Has a Significant Adverse Impact on Black and
7 Latinx Children

8 77. The racist design of the YAT probation program ensures that Black and
9 Latinx youth are overrepresented in and disproportionately impacted by the
10 program’s constitutional deficiencies. In YAT, “risk” is fundamentally related to
11 race and ethnicity.

12 78. Defendants’ association of Black and Latinx youth with “risk” and
13 delinquency is epitomized by the Neighborhood Toxicity Formula, a metric
14 designed to guide where the YAT program focuses its operation. The Neighborhood
15 Toxicity Formula labels neighborhoods as more or less “toxic” based in part on their
16 racial, ethnic, and socio-economic demographics. Under this formula, a
17 neighborhood’s toxicity increases when it has a large “non-white population,” and is
18 largely populated by residents who are “Hispanic/Latino,” “recent immigrants,” or
19 “immigrants/temporary residents.” The “Neighborhood Toxicity Calculation”
20 further codifies racial bias by measuring “toxicity” through variables that are
21 recognized code words for racial animus, including “dense multi-family housing,”
22 “concentration of crime-prone age groups,” and “family size.” *See, e.g., Mhany*
23 *Mgmt. Inc., v. Cnty. Of Nassau*, 819 F.3d 581, 608 (2d Cir. 2016) (holding that
24 concerns from white community members that a proposed development would bring
25 “full families living in one bedroom townhouses, two bedroom co-ops,” and “four

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27 ²³ *See, e.g., In re C.Z.*, 165 Cal. Rptr. 3d 409, 411 (Cal. Ct. App. 2013) (affirming
28 denial of deferred sentence on basis of unsuccessful completion of Section 654
program).

1 people or ten people in an apartment” suggested implicit racial bias via code words;
2 and referencing empirical evidence that opponents to affordable housing often
3 subtly reference immigrant families under the guise of fears that the proposed
4 development “will bring in ‘families with lots of kids’”). The Neighborhood
5 Toxicity formula is set out in a 2005 program evaluation commissioned by
6 Defendants from California State University, San Bernardino and used to make
7 recommendations on the communities within Riverside County where Defendants
8 should focus in operating the YAT program.

9 79. The racist assumption that a person’s race or ethnicity makes them
10 more or less “at risk” of future criminal behavior carries through to the day-to-day
11 implementation of the YAT program. Probation uses a Risk Assessment Form to
12 evaluate children referred and eligible for a YAT probation contract. The Risk
13 Assessment Form used by Defendants is a four-point metric that purports to predict
14 a child’s risk of delinquency. The questions used to assign a risk score are broadly
15 drafted, invite bias, and incorporate factors that are beyond individual control and
16 perpetuate disparities and discrimination occurring elsewhere in the justice system
17 and in school discipline. The risk assessment is not validated and the “risk” it
18 purports to identify is generalized. The questions a YAT officer evaluates include
19 whether: there is “[l]ack of knowledge by parents or guardians of minor’s friends
20 and activities” and a lack of age-appropriate rule-setting; whether there are “chronic
21 discipline problems”; whether the minor has engaged in “substance abuse multiple
22 times, beyond experimentation”; whether “any relative with whom the minor
23 associates with has . . . a prison record” or “pending an adult or juvenile
24 adjudication”; and whether the minor “associates with a gang or tagging crew.”
25 Based on these questions, a YAT officer assigns children a score between zero and
26 four. This score is purportedly used to inform the decision to place a child on YAT
27 probation.

1 80. Defendants' Risk Assessment Form has a significantly adverse and
2 disparate impact on Black and Latinx children. The broadly drafted criteria of the
3 Risk Assessment Form result in higher risk scores for Black and Latinx children
4 when compared to similarly situated white children. Excluding any referrals to YAT
5 deemed ineligible, over twenty-four percent of white youth evaluated received a
6 score of 0 or 1. In contrast, only seventeen percent of Latinx children and sixteen
7 percent of Black children received a score of 0 or 1. White children are more than
8 twice as likely as Black children (three percent and seven percent, respectively) and
9 1.6 times as likely as Latinx children to receive a risk score of 0. Similarly, when
10 looking at the scores of 3 or 4, fifty-one percent of Black and Latinx youth were
11 assigned scores of either 3 or 4 points, where only forty-two percent of all white
12 youth referred received a score of 3 or 4 points.

13 81. Defendants' policy, practice, and custom of disproportionately placing
14 Black and Latinx youth on YAT probation contracts creates an additional layer of
15 significantly adverse and disparate impact. Black and Latinx youth are less likely to
16 be scored a risk factor of zero or one. When they do receive a risk score of zero or
17 one, they are still more likely than white children with the same risk score to be
18 placed on probation. A full sixty percent of Latinx youth, and fifty percent of Black
19 youth who are evaluated as presenting no risk are nonetheless placed on probation.
20 In contrast, forty-five percent of white youth scoring zero are placed on probation.
21 Amongst youth scoring a 1 on the risk assessment, sixty-one percent of Black youth
22 and fifty-seven percent of Latinx youth are still assigned a probation contract, while
23 only fifty-two percent of white youth are assigned probation. At all levels, the Risk
24 Assessment Form favors white children and criminalizes Black and Latinx children.

25 82. The racially disparate impact of Defendants' risk assessment and
26 assignment of YAT probation contracts are in keeping with the YAT probation
27 program's overarching approach to "toxicity" in the communities that make up
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1 Riverside County. The racially discriminatory operation of the YAT program means
2 that Black and Latinx children are also disparately subjected to violations of their
3 constitutional rights, including their due process rights, their First Amendment
4 rights, and their Fourth Amendment rights.

5 I. Allegations of Named Plaintiffs

6 Andrew M.

7 83. Andrew M. was placed on YAT probation after goofing around with
8 friends was met with a series of escalating and improper law enforcement responses.
9 In the spring of 2017, Andrew was a thirteen-year-old eighth grader at Mountain
10 View Middle School in Riverside County. Andrew's school was patrolled by Officer
11 Lee, of the Moreno Valley Police Department. On February 9, 2017, during the
12 lunch period, Andrew. was kicking an orange back and forth with friends in a
13 makeshift game of soccer when he misdirected a kick and the orange rolled between
14 Officer Lee's legs.

15 84. Officer Lee approached Andrew from behind, placed him in handcuffs,
16 and led him to the office.

17 85. At the principal's office, Andrew saw Officer Lee whisper something
18 to the assistant principal, Dr. Harris, before leaving the room. Thereafter, Dr. Harris
19 turned to Andrew and stated "let me see your bag." Andrew handed over his
20 backpack, which Dr. Harris then searched. She retrieved a small amount of
21 marijuana. Following the search, Officer Lee issued Andrew a citation under
22 California Health and Safety Code section 11357(d), a civil infraction for possession
23 of marijuana.

24 86. The next morning, Andrew's mother, Denise M., went to the school to
25 pick up a copy of Andrew's discipline notice. Dr. Harris also gave her a copy of a
26 YAT probation contract with Andrew's identifying information entered into the top
27 portion. Based on her communications with Dr. Harris, Denise understood that
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1 Andrew would be required to submit to YAT probation to avoid being expelled
2 from school.

3 87. Several weeks later, on or about March 13, 2017, Andrew's mother
4 received a phone call from Riverside County Probation Officer Natalie Holden,
5 informing her that Andrew had been referred to YAT. Officer Holden informed
6 Denise of some of the terms of YAT, including weekly check-ins and required
7 community service hours. Denise requested a written confirmation of Andrew's
8 referral and the required appointment details. In response, Officer Holden sent
9 Denise an email confirming the date and time of Andrew's required appointment,
10 Tuesday, March 21, at 8:00 am, and the address of the police station where the
11 meeting would occur.

12 88. On the date of the required meeting, Andrew arrived at the police
13 station with his father, uncle, and grandmother. They were met by a female, who on
14 information and belief was a plainclothes police officer, who escorted them to a
15 small windowless office. As the female officer led them to the room, a male, who on
16 information and belief was a plainclothes police officer, joined. The male officer
17 was armed with a gun. Andrew felt alarmed and intimidated at the police station.
18 Seeing the police officer's gun exacerbated his fears. Sitting at the conference room
19 table, the female officer questioned Andrew and his family members about Andrew
20 and his family, including about the friends Andrew M. hangs out with and whether
21 anyone in Andrew's family has been involved with the criminal justice system.

22 89. The female officer then gave Andrew a contract for informal probation.
23 Andrew's probation contract mirrored the standard probation contract used to train
24 YAT officers. The contract indicated that a program of probation supervision under
25 Section 654 was undertaken in lieu of filing a petition in Juvenile Court. Where the
26 contract stated "You have been accused of the crime of ____" the female officer
27 wrote "n/a. WIC 601/citation (infr.)," and included a nine-digit citation number. The
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1 contract included a number of pre-selected terms of supervision, including the
2 requirements to abide by an 8:00 pm curfew, attend school and notify YAT officers
3 of any absence before 9:00 am, “obey directives of the Probation Officer and YAT
4 members,” report to probation as directed, have “no negative contact with anyone,”
5 complete twenty-five hours of community service, write an essay, attend counseling
6 as directed, check in with YAT every Thursday, attend a tour of a correctional
7 facility, attend programming at the Moreno Valley Police Department every
8 Tuesday afternoon, and maintain good grades. The contract indicated that probation
9 supervision would last for a term of six months and that “any violation of the terms
10 and conditions may be grounds for referring the matter to the District Attorney’s
11 Office for prosecution.” The prohibition on associating with anyone not approved
12 was crossed out for Andrew’s contract, and the blanket search term was not checked
13 off.

14 90. The numerous requirements of Andrew’s informal probation contract
15 exceeded the consequences contemplated by the legislature under Health and Safety
16 Code section 11357(d), which permits a maximum penalty of four hours of drug
17 education or counseling and up to ten hours of community service for a first offense,
18 and does not authorize any additional conditions of probation supervision.

19 91. Although the contract included language stating that probation
20 supervision was undertaken with Andrew’s consent, and that Andrew “understood
21 and agreed to comply” with the probation terms, Andrew did not believe he had a
22 choice in submitting to YAT probation and did not understand fully the terms of the
23 contract or the decision he purportedly made. Andrew, a thirteen-year-old boy who
24 had never come in contact with the criminal justice system before, found himself
25 pressured in a confining room with law enforcement at the police station. Across the
26 table from Andrew were two authority figures he believed to be police officers, one
27 of them visibly armed. In these circumstances, Andrew felt scared and intimidated.

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1 Beyond the ticket he received from Officer Lee, Andrew and his family had no
2 information about the offense or offenses of which he was accused or the underlying
3 factual allegations. No one provided Andrew with the information that would have
4 allowed him to weigh the costs and benefits of opting to go to court or to accept
5 informal probation. He had no information about his legal rights, including his right
6 to counsel, which California law provides for any child petitioned under Section
7 601, *see* Cal. Welf. & Inst. Code § 634, or his right to remain silent.

8 92. Andrew had no legal counsel who could have offered him guidance on
9 the considerations he faced in this critical stage. A defense attorney could have
10 advised Andrew that the terms of informal probation offered were in many ways
11 more onerous than those a court could order under Section 11357(d). Counsel also
12 could have warned Andrew that acquiescing to informal probation here, where he
13 faced no criminal charges, would preclude the possibility of diversion in any future
14 juvenile delinquency case and could be held against him in any future sentencing.
15 So too, defense counsel could have probed the legal sufficiency of the alleged
16 violation of Section 601, recognized that Section 601 cases are not heard by courts
17 in Riverside County, and advised Andrew and his family of the possible defense
18 based on the unlawful search of his backpack. In these circumstances—given the
19 lack of adequate notice, the misleading information, and the coercive environment—
20 Andrew could not have provided voluntary, knowing, and intelligent consent to
21 submit to YAT probation.

22 93. Although the YAT probation contract states that YAT probation is
23 entered in lieu of prosecution, this did not hold true for Andrew. Shortly after being
24 placed on YAT probation, Andrew also received a court summons for violation of
25 California Health and Safety Code section 11357(d). Andrew appeared in Riverside
26 County Superior Court on April 3, 2017 with his mother, his grandmother, and a
27 Sigma Beta Xi mentor. Andrew had participated in Sigma Beta Xi's mentoring
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1 program since the sixth grade, and Sigma Beta Xi presented a letter on his behalf,
2 attesting to his good character and his participation in a community service program.
3 The court accepted Andrew's guilty plea and sentenced him to a suspended fine on
4 the condition that he submit to one drug test and to complete ten hours of
5 community services, which Andrew could complete with the Sigma Beta Xi
6 program. Andrew subsequently completed these terms. Notably, these court-ordered
7 conditions were less onerous than those specified in the YAT probation contract that
8 was supposed to divert children like Andrew from harmful contact with the juvenile
9 justice system.

10 94. During the six-month term of YAT probation extending into Andrew's
11 ninth-grade year, Andrew was pulled out of class to check in with YAT officers
12 multiple times. The officers were not always the same. These check-ins caused
13 Andrew to be tardy to his fourth-period class so frequently that his school called his
14 grandmother, who then worried that Andrew would face school discipline for
15 truancy.

16 95. On one occasion, YAT officers removed Andrew from his fifth-period
17 Spanish class even though he was taking a test that period. Andrew was then taken
18 to another room and told to complete a fifty-question survey about how comfortable
19 he felt with YAT. Andrew again told the officer that he was going to miss his
20 Spanish quiz, but the officer still did not permit him to return to class. When
21 Andrew was finally allowed to return to his Spanish class, he only had enough time
22 to write his name, the date, and answer maybe just one question on the vocabulary
23 test before class ended.

24 96. In addition to school time check-ins, YAT officers visited Andrew's
25 home multiple times to inquire about his whereabouts and activities. During one
26 visit, an officer told Andrew's mother that he must attend a mandatory YAT
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1 programming meeting at the Moreno Valley Police Department, or else face severe
2 consequences.

3 97. According to the terms of the contract, Andrew's probation was set to
4 end on September 21, 2017. Since that date, Andrew's mother has made several
5 telephonic and in person requests for confirmation that Andrew successfully
6 completed YAT probation and is no longer subject to probation terms. At one point,
7 she was told that a confirmation letter was sent by mail and that another letter would
8 be sent by mail. She never received a letter in the mail.

9 **Jacob T.**

10 98. Jacob T. was placed on YAT probation following a disputed altercation
11 he had with a female classmate on March 5, 2018. On that day, Jacob was a sixteen-
12 year-old, ninth-grade student at Canyon Springs High School in Moreno Valley.

13 99. Ten days later, on March 15, 2018, a Canyon Springs High School
14 administrator called Jacob into his office to discuss the female student's allegations.
15 When Jacob arrived, the administrator and an armed police officer were waiting in
16 the office. The administrator called Jacob's mother, who insisted that they wait until
17 she arrived to begin questioning Jacob. When Jacob's mother arrived, the
18 administrator recounted the other student's allegations, which Jacob denied. The
19 administrator suspended Jacob from Friday, March 16, 2018 to Thursday, March 22,
20 2018. The administrator did not discuss YAT with Jacob or his mother during this
21 meeting.

22 100. On March 19, 2018, four days after Jacob and his mother's meeting
23 with the administrator, a probation officer called Jacob's mother. The officer told
24 her that an assistant principal at Jacob's school had referred him to YAT. The
25 probation officer provided only very minimal information about the program on the
26 call, explaining that it was a probation program for "at-risk" teens with a number of
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1 requirements. The probation officer told Jacob’s mother that Jacob. and his parents
2 needed to go to the Moreno Valley police department station for a meeting.

3 101. On March 22, 2018, Jacob and both of his biological parents arrived at
4 the Moreno Valley Police Department as they had been directed. A probation officer
5 escorted the family to a small, windowless room. Once in the room, a second
6 officer, who on information and belief was a law enforcement officer, joined
7 carrying a YAT probation contract. The second officer was armed with pepper spray
8 and handcuffs. The police officer stated her name and began checking off the terms
9 of the probation contract.

10 102. During the meeting, the officers repeatedly told Jacob and his family
11 that Jacob would be “a failure in life” and likely would end up in prison if he did not
12 agree to participate in and successfully complete YAT. The officers failed to
13 provide Jacob or his family time to consider the decision, failed to give them space
14 to discuss their options, failed to provide any information about their legal rights,
15 and failed to indicate that they could consult an attorney or have one present. The
16 officers also failed to explain specifically why Jacob was referred to YAT. Jacob’s
17 probation contract, moreover, merely stated “601 WIC” as the offense for which
18 Jacob is on YAT probation. Critically, the officers failed to explain that Jacob faced
19 no criminal charges and that agreeing to informal probation would preclude Jacob’s
20 participation in any future diversion program. Without understanding the scope of
21 the surveillance and believing that they had no choice in the matter, Jacob and his
22 mother felt compelled to sign the YAT probation contract.

23 103. After the family signed the contract, the officers revealed for the first
24 time that YAT community service requirements were mandatory and that Jacob’s
25 room would be subject to unannounced searches.

26 104. The terms of Jacob’s YAT probation contract mirror those in the
27 standard probation contract, including the requirements to abide by an 8:00 pm
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1 curfew, attend school and notify YAT officers of any absence before 9:00 am, “obey
2 directives of the Probation Officer and YAT members,” report to probation as
3 directed, have “no negative contact [with] anyone,” complete twenty-five hours of
4 community service, write an essay, attend counseling as directed, check in with
5 YAT every Thursday before 4:30 pm, attend a tour of a correctional facility, attend
6 programming at the Moreno Valley Police Department every Tuesday afternoon,
7 and maintain good grades. Among a long list of conditions, Jacob’s probation terms
8 also include a prohibition on association “with anyone not approved” by YAT: a
9 term allegedly authorizing “search/test of my person/vehicle/premises upon request
10 of the Probation Officer or YAT member;” and an additional term requiring drug
11 testing. The probation contract indicates that supervision will last for a term of six
12 months and that “any violation of the terms and conditions may be grounds for
13 referring the matter to the District Attorney’s Office for prosecution.”

14 105. Jacob is still required to comply with all of the terms of YAT
15 probation. In the three months since he was placed on probation, Jacob has been
16 subjected to at least five home visits and has been interrogated by police officers,
17 probation officers, and deputy district attorneys, all YAT members.

18 106. Jacob currently attends Riverside County Education Academy. In or
19 around May 2018, a probation officer pulled Jacob out of his fifth-period class to
20 question him. Jacob was escorted into a conference room where he met with a
21 probation officer alone. The officer interrogated Jacob for an extended period,
22 causing Jacob T. to lose instruction time. Jacob and his parents are concerned that
23 probation officers will continue pulling him out of class to interrogate him and
24 interfere with his ability to perform well in school.

25 107. Probation officers have told Jacob that he will be subjected to at least
26 one mandatory drug test within the six-month probation term. During a mandatory
27 YAT programming meeting in or about April 2018, a YAT officer pulled Jacob
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1 from the meeting, followed Jacob into the restroom, and demanded that Jacob
2 provide a urine sample.

3 108. Jacob and his family remain strongly dissatisfied with YAT, do not
4 believe it has had or will have a positive impact on Jacob, and do not believe that
5 Jacob T. has learned any new skills. In contrast, Jacob and his family believe that
6 programs such as Sigma Beta Xi—in which Jacob is currently enrolled as a
7 mentee—are much more effective in supporting Jacob and keeping him on track to
8 graduate. Jacob’s YAT probation is set to expire on September 22, 2018. However,
9 a YAT officer told Jacob that his probation supervision period could restart.

10 **J.F.**

11 109. J.F., a Black female, was sixteen years old when she enrolled as a
12 sophomore in Rancho Verde High School in Riverside County in the fall of 2017.
13 J.F. had moved from her grandfather’s home in Arizona to live with her
14 grandmother, Cindy McConnell. J.F. struggled coping with her Oppositional Defiant
15 Disorder and had extreme difficulty waking up early in time for school, where her
16 first class started at 7:30 am. The school’s and Defendants’ response to J.F.’s
17 struggles and late arrivals—placing her on YAT probation—failed to help J.F. and
18 instead violated her rights.

19 110. Defendants placed J.F. on YAT probation on February 23, 2018, less
20 than twenty-four hours after first meeting with officials from Val Verde Unified
21 School District and two law enforcement officers regarding J.F.’s late arrivals. The
22 officials implied that J.F. would be involuntarily transferred to a county continuation
23 school, and her grandmother would face criminal charges, if J.F. did not acquiesce
24 to YAT probation. Pressured, cornered, and concerned, J.F. felt she had no
25 alternative but to submit to YAT. Defendants did not provide J.F. with notice of the
26 violation she was accused of committing, information about the juvenile court
27 process and the consequences and terms of YAT probation, or advise her of her
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1 legal rights. J.F. did not have the benefit of counsel or an impartial decision maker.
2 In these circumstances, J.F. could not give voluntary, knowing, or informed consent
3 to subject herself to YAT probation.

4 111. J.F. first met with a School Attendance Review Board (“SARB”)
5 official on or about late December 2017 or early January 2018. During that meeting,
6 the SARB official told J.F. and her grandmother, Cindy McConnell, that the school
7 district would help J.F. solve her attendance issues through a series of graduated
8 responses. When Cindy received notice of a mandatory meeting scheduled for
9 February 22, 2018, she and J.F. expected the meeting would be similar to the prior
10 meeting with the SARB official.

11 112. Instead, when they arrived on February 22, J.F. and Cindy quickly
12 realized that it was unlike the previous meeting. J.F. and Cindy were escorted into a
13 conference room where multiple District officials, including a Val Verde Unified
14 School District School Board Member, Riverside County Probation Officer German
15 Regin and an officer, who on information and belief is a law enforcement officer,
16 and a woman typing formal meeting notes were waiting. During that meeting, the
17 SARB panel chastised J.F. for her absences and poor grades, implied that the
18 District could involuntarily transfer her to Val Verde Continuation School, and
19 suggested that Cindy could face criminal charges if J.F.’s attendance did not
20 improve. J.F. tried to explain her difficulty waking up early enough to make her first
21 class at 7:30 am. The SARB panel told J.F. that if she wanted to improve her
22 attendance and avoid involuntary transfer, she would have to submit to YAT
23 probation. The SARB panel informed J.F. and Cindy that a mandatory YAT meeting
24 was scheduled for 9:00 am the following day, February 23, 2018.

25 113. At 9:00 am on February 23, 2018, less than twenty-four hours after the
26 SARB hearing, J.F. and Cindy arrived for the mandatory YAT meeting at Val Verde
27 High School. There, they were met by Probation Officer Regin, of the Riverside
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1 County Probation Department, who escorted them to his office. Though they
2 believed YAT probation was the only way to prevent J.F. from being pushed out of
3 her school and Cindy from facing criminal charges, as the SARB panel suggested,
4 neither J.F. nor Cindy knew exactly why J.F. was being put on probation.

5 114. After extensive questioning by Officer Regin, another officer briefly
6 entered the room, stated his name, and plainly stated that he would be conducting
7 visits to J.F. and Cindy's home. After that officer left, Officer Regin
8 unapologetically gave J.F. and Cindy the probation contract that included
9 preselected terms, consistent with the standard YAT probation contract, spent no
10 more than a few minutes describing the YAT probation program, and instructed J.F.
11 to read the contract herself, without providing any explanation of the probation
12 contract's terms.

13 115. J.F.'s probation contract reflects that she is charged with the crime of
14 "601 WIC," but no YAT officer explained what this means. The contract also
15 indicates that YAT probation was proposed "[i]n lieu of filing a Petition with the
16 Juvenile Court." J.F. and Cindy are uncertain but believe J.F. was placed on YAT
17 probation either for attendance issues or for bad grades, both of which were
18 mentioned by the SARB panel and Officer Regin. Looking at the term "601 WIC,"
19 written on J.F.'s probation contract, Cindy wondered whether YAT was for low-
20 income families that would qualify for the federal nutrition and health program for
21 Women, Infants, and Children, commonly referred to as "WIC."

22 116. All but one condition—mandatory check-ins—were preselected on
23 J.F.'s YAT probation contract. As terms of her probation, J.F. is required to:

- 24 • Obey all laws and ordinances,
- 25 • adhere to a 10:00 pm curfew,
- 26 • "obey parents or guardian and keep them informed of []
27 whereabouts and associates,"

- 1 • attend school every period of every day and notify YAT officers
- 2 of any absence before 9:00 am,
- 3 • “obey school officials/rules,”
- 4 • report to probation as directed,
- 5 • “obey directives of the Probation Officer and YAT members,”
- 6 • “not associate with anyone not approved by parent, YAT”;
- 7 • have “no association with negative influences,”
- 8 • have “no negative contact with anyone, including, parent, school
- 9 staff, peers, YAT members, or law enforcement,”
- 10 • submit a letter of apology,
- 11 • complete “20+” community service hours,
- 12 • write an essay,
- 13 • attend counseling as directed and continue receiving therapy
- 14 services from the County,
- 15 • attend a tour of a correctional facility,
- 16 • attend programming every Tuesday afternoon,
- 17 • “improve and maintain good grades and attendance,”
- 18 • maintain “good behavior at home and school,”
- 19 • “submit to search/tests of [her] person/vehicle/premises upon
- 20 request of the Probation Officer of YAT member,” and
- 21 • “attend any awareness classes deemed necessary. Parent(s) to
- 22 attend parenting if recommended.”

23 117. The probation contract also reflects that J.F. “understand[s that] home
24 visits will be conducted by the team on an as needed basis,” and threatens that “any
25 violation of these terms and conditions may be grounds for referring the matter to
26 the District Attorney’s Office for prosecution.”

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1 118. The numerous conditions in J.F.’s YAT probation contract conflict
2 with the response to school attendance problems contemplated by the legislature
3 which created SARBs to “[d]ivert pupils with serious attendance and behavioral
4 problems from the juvenile justice system to agencies more directly related to the
5 state public school system,” namely, “community-based and school-based
6 programs.” Cal. Educ. Code § 48325.

7 119. Beyond the SARB meeting on February 22, 2018, and Officers Regin’s
8 vague references to attendance and grades, J.F. and her grandmother Cindy had no
9 information about the offense of which she was accused. Without knowing the
10 direct consequences of accepting YAT probation, that she had the right to reject
11 probation or particular terms, and without an understanding or advisement of the
12 rights she waived, J.F. and Cindy had no opportunity to meaningfully weigh the
13 costs and benefits of opting to go to court or to accept this purported informal
14 probation. J.F. had no information about her legal rights, including her right to
15 consult with counsel and her right to remain silent. Nor was there an impartial
16 decision maker present.

17 120. J.F. had no legal counsel who could have offered her much-needed
18 guidance on the considerations she faced in this critical stage. A defense attorney
19 could have advised J.F. that the terms of informal probation offered were excessive
20 and inappropriate under California law and warned J.F. that acquiescing to informal
21 probation here, where she faced no criminal charges, would preclude the possibility
22 of diversion in any future case and could be held against her in any future
23 sentencing. So too, defense counsel could have probed the legal sufficiency of the
24 alleged violation of Section 601 and recognized that Section 601 cases are not heard
25 by courts in Riverside County. In these circumstances, J.F. could not have provided
26 voluntary, knowing, or intelligent consent to submit to YAT probation.

1 121. Following J.F.'s entry into YAT probation on February 23, 2018,
2 Officers Regin and a second officer have conducted at least five unannounced home
3 visits to Cindy and J.F.'s home. During each visit, one officer has entered the home,
4 observed the general areas, and stood at J.F.'s bedroom door to observe her room
5 while asking J.F. about personal matters, including how J.F. treats Cindy, maintains
6 cleanliness in her room, and conducts herself in romantic relationships.

7 122. A different YAT officer whose name J.F. does not know has also
8 removed J.F. from class on several occasions for extensive meetings, interfering
9 with her learning time. These visits typically occur during J.F.'s fifth-period History
10 class, or sixth-period PE class. In addition to officers removing J.F. from class, Ms.
11 Estrada, a woman identified as a YAT counselor, pulls J.F. out of school about once
12 a week for about one hour. The meetings begin during J.F.'s second-period English
13 class. Ms. Estrada is abrasive, judgmental, and undermines the progress that J.F. and
14 Cindy have made with J.F.'s therapist.

15 123. J.F. is enrolled in summer school at Val Verde High School, a
16 continuation school. Her classes take place directly across the hall from the
17 designated YAT office. Due to the compressed timeframe, a single day of summer
18 school covers an entire week's worth of class content. Despite the valuable
19 instructional time, YAT officers have continued to pull J.F. from class during
20 summer school. J.F., who is deficient in school credits, is fearful that YAT officers
21 will continue removing her from class time during summer school, causing her to
22 miss valuable educational time and compromising her ability to complete the
23 summer school credits she needs.

24 124. J.F. finds the required YAT class topics—including murder and felony
25 murder—completely unrelated to the reason she was placed on YAT probation. The
26 meetings are also burdensome, beginning at the Perris Sheriff's Station less than one
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1 hour after J.F.'s regular school day ends in Val Verde, making it more difficult to
2 complete her school homework.

3 125. J.F. is subject to her YAT probation contract and the attendant
4 probation supervision until August 23, 2018.

5 **Sigma Beta Xi**

6 126. Sigma Beta Xi is a non-profit organization providing mentoring
7 services primarily to Riverside County children of color, including children with
8 disabilities, whose educational success is at risk due to poor grades, discipline, or
9 other factors. Sigma Beta Xi contracts with public schools within Riverside County,
10 who refer children to receive mentoring and support from Sigma Beta Xi. Sigma
11 Beta Xi's mission is to establish strong families and communities by building an
12 organization of diverse young men and women who will exemplify leadership and
13 professionalism based upon the principles of brotherhood, sisterhood, excellence,
14 endurance, wisdom, service, and unity.

15 127. Mentoring is central to Sigma Beta Xi's mission. Sigma Beta Xi
16 employs twelve mentors who work to understand the environment from which the
17 child comes to school, provide one-on-one mentoring and leadership development,
18 and ultimately find ways to bring the child to her full potential. Sigma Beta Xi
19 creates an individualized plan for each mentee that responds to the child's unique
20 needs. Sigma Beta Xi offers more intensive mentoring services for mentees with
21 greater needs, including additional mentoring hours, more support coordinating with
22 caretakers and other service providers, more referrals to outside counseling, and
23 additional extracurricular activities and field trips designed to foster leadership
24 skills. Sigma Beta Xi also enrolls a select number of students in two enhanced
25 programs. The first is its Rites of Passage Program, a resource-intensive support
26 program that provides counseling services for students and their families and helps
27 them deal with trauma, anger, anxiety, and depression. The second is its Positive
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1 Youth Justice Initiative Program, a leadership development program that trains and
2 empowers youth to engage in community organizing and transform the criminal
3 justice system.

4 128. Sigma Beta Xi offers a continuum of engagement and leadership
5 opportunities for mentees as their involvement in the organization increases. All
6 mentees receive one-on-one mentoring each week. Once mentees are
7 developmentally ready for sharing in a group setting, mentees join Sigma Beta Xi's
8 weekly group mentoring sessions. After sustained involvement with Sigma Beta Xi,
9 mentees are given additional opportunities to develop their leadership and help
10 shape the organization, such as by interviewing prospective mentors. A growing
11 number of mentees also join Sigma Beta Xi's student fraternity, which operates
12 under the Sigma Beta Xi name and provides additional opportunities for leadership
13 and community service.

14 129. Numerous Sigma Beta Xi mentees, including Andrew M. and Jacob T.,
15 have been placed on YAT probation.

16 130. As a result of mentees' experiences with YAT, Sigma Beta Xi's
17 mission of building a diverse group of young professional leaders has been
18 significantly frustrated. Mentees who currently are or have been on YAT probation
19 are often more distrustful of adults, including their Sigma Beta Xi mentors. As a
20 result, these mentees make slower progress in their mentoring sessions and take
21 longer to advance, or do not fully advance, through Sigma Beta Xi's continuum of
22 engagement and leadership opportunities.

23 131. To address its frustrated mission, Sigma Beta Xi has been forced to
24 divert its limited resources in various ways. Sigma Beta Xi has assigned mentees
25 who are or were on YAT probation to additional and more intensive services to
26 ensure mentees can build trusting and effective relationships with mentors despite
27 the mentees' experience with YAT probation. Mentors also engage in extra work to
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1 ensure that mentees involved with YAT are not prohibited from participating in
2 Sigma Beta Xi activities and do not face additional consequences for participating in
3 activities designed to provide opportunities for positive development. For example,
4 Sigma Beta Xi had to intervene when Probation accused a mentee of violating the
5 terms of her YAT probation by traveling to a student leadership summit in Los
6 Angeles with Sigma Beta Xi. In other circumstances, Sigma Beta Xi mentors
7 transport mentees to comply with onerous YAT probation supervision requirements.
8 Additionally, Sigma Beta Xi mentors now require more training about YAT to
9 ensure they can effectively support mentees whose lives are made more difficult by
10 the program.

11 132. If Sigma Beta Xi were not required to spend these additional resources
12 to address the frustration of mission created by Defendants' operation of YAT, it
13 would be able to devote these resources to activities that further its mission. Sigma
14 Beta Xi would be able to spend more time with individual mentees on positive
15 leadership building activities, rather than addressing needs tied to complying with
16 probation supervision. It could also use these resources to, for example, provide
17 mentoring services to additional children in Riverside County, such as enrolling
18 more children in its Rites of Passage and Positive Youth Justice Initiative programs.

19 **V. CLASS ACTION ALLEGATIONS**

20 133. Andrew M., Jacob T. and J.F. ("Class Plaintiffs") bring this class action
21 on behalf of themselves and all others similarly situated pursuant to Federal Rule of
22 Civil Procedure 23(b)(2).

23 134. Class Plaintiffs seek to certify a class defined as follows:

24 All children in Riverside County who have been referred to
25 the Riverside County Youth Accountability Team ("YAT")
26 program pursuant to Cal. Welf. & Inst. Code § 601, and who
27 have either been placed on a YAT probation contract or
28 have been referred but not yet placed on a YAT probation
contract.

1 Those within the class are referred to herein as the “Class Members.” On
2 September 17, 2018, the Court entered a Stipulated Order Certifying Class and
3 Appointing Class Counsel. That Order adopts Plaintiffs’ definition of the class
4 described immediately above.

5 135. The Class Members are so numerous that individual joinder of their
6 members is impractical. Each year, thousands of children are referred to YAT.
7 According to public records obtained from the Probation Department, in 2015, YAT
8 received 1505 referrals. Each year, probation places between 400 and 500 children
9 on YAT probation contracts. Of those, hundreds are referred to or placed on YAT
10 pursuant to California Welfare and Institutions Code Section 601. The number of
11 unnamed future class members who will be referred and subject to YAT probation
12 through the policies, practices, and customs alleged herein is unknown and
13 unknowable.

14 136. There exist questions of law and fact common to the entire class. These
15 common questions of fact and law include, without limitation:

- 16 a) Whether Defendants are required to provide adequate notice to
17 children who are referred to YAT of the basis and circumstances
18 of their referral.
- 19 b) Whether Defendants are required to provide adequate notice to
20 children who are referred to YAT of any statutes, other laws or
21 rules they are alleged to have violated in connection with their
22 YAT referral.
- 23 c) Whether Defendants are required to provide adequate
24 explanation to children who are referred to YAT of the
25 requirements of the YAT program and any consequences of
26 participating in the YAT program.
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- d) Whether Defendants are required to provide adequate notice to children who are referred to YAT that participation in YAT will preclude them from participating in other diversionary programs in the future.
- e) Whether Defendants are required to adequately advise children of their right to consult with legal counsel before the child decides whether to agree to a YAT probation contract.
- f) Whether Defendants are required to provide adequate notice to children who are referred to YAT that agreeing to YAT may require them to submit to searches of their homes or persons.
- g) Whether Defendants are required to provide adequate notice to children who are referred to YAT that agreeing to YAT may require them to waive their rights to associate with “anyone not approved” by YAT.
- h) Whether Defendants are required to provide adequate notice to children who are referred to YAT that agreeing to YAT may prohibit them from having “negative contact with anyone,” in violation of their expressive association rights.
- i) Whether California Welfare & Institutions Code § 601 is unconstitutionally vague.
- j) Whether Defendants are required to operate the YAT program in a non-discriminatory manner that does not have a disproportionate effect on different racial or ethnic groups of children.
- k) Whether Defendants may use a risk assessment instrument that scores Black and Latinx children as having a higher risk of criminality as a basis for YAT placement.

1 137. Class Plaintiffs' claims are typical of those of the Class members in
2 that they are children in Riverside County who were each referred to and placed on
3 a YAT probation contract, and suffer the resulting violations of their civil rights
4 under Constitutional and statutory laws due to Defendants' implementation of the
5 YAT probation program.

6 138. Class Plaintiffs will fairly and adequately protect the interests of the
7 Class Members. The Class Plaintiffs have a personal interest in the subject matter of
8 this litigation and have no interests antagonistic to the interests of the class. Class
9 Plaintiffs are represented by competent and experienced counsel in class action, civil
10 rights, and constitutional litigation.

11 139. Defendants have acted and refused to act on grounds generally
12 applicable to the Class Members, thereby making appropriate final injunctive relief
13 and/or corresponding declarative relief with respect to the class and the subclasses
14 as a whole. Fed. R. Civ. P. 23(b)(2).

15 140. The prosecution of individual actions against Defendants by individual
16 class members would create a risk of inconsistent and varying adjudications and the
17 establishment of incompatible standards of conduct across the Plaintiff Class. Fed.
18 R. Civ. P. 23(b)(1).

19 **FIRST CLAIM FOR RELIEF**

20 **Violation of the Due Process Clause of the Fourteenth Amendment**
21 **to the U.S. Constitution**
22 **42 U.S.C. § 1983**
23 **(Deprivation of the Right to Procedural Due Process)**
24 **(All Plaintiffs Against All Defendants)**

25 141. Plaintiffs incorporate herein by reference the allegations of Paragraphs
26 1 through 140 as though fully set forth herein.

27 142. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
28 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
of the certified class.

1 143. The Procedural Due Process Clause of the Fourteenth Amendment
2 provides that no state shall “deprive any person of life, liberty, or property, without
3 due process of law.” U.S. Const. amend. XIV.

4 144. Plaintiffs have a fundamental interest in their liberty to be free from the
5 constraints of probationary supervision imposed by Defendants’ YAT probation
6 program. Defendants deprive Plaintiffs of their liberty interests without adequate
7 procedural protections.

8 145. Defendants have a policy, practice, and custom of placing children on
9 YAT probation through unfair procedures that deny Plaintiffs the ability to act in
10 their own best interest and to make a voluntary, knowing, and intelligent decision
11 regarding whether to accept YAT probation.

12 146. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
13 under the Fourteenth Amendment of the United States Constitution and cause
14 serious, irreparable, and lasting harm to these children, which they will continue to
15 suffer in the absence of relief.

16 147. The mission of Sigma Beta Xi is also frustrated by the unlawful policy,
17 practice, and custom of Defendants, and Sigma Beta Xi continues to divert resources
18 as a result.

19 **SECOND CLAIM FOR RELIEF**

20 **Violation of the Due Process Clause of the Fourteenth Amendment**
21 **to the U.S. Constitution**
22 **42 U.S.C. § 1983**
23 **(Welf. & Inst. Code § 601 is Overly Vague on Its Face in**
24 **Violation of Due Process)**
25 **(All Plaintiffs Against All Defendants)**

26 148. Plaintiffs incorporate herein by reference the allegations of Paragraphs
27 1 through 140 as though fully set forth herein.
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1 149. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
2 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
3 of the certified class.

4 150. The Due Process Clause of the Fourteenth Amendment protects against
5 the deprivation of life, liberty, or property without due process of law.

6 151. The terms of Section 601(b)—prohibiting “persistent or habitual refusal
7 to obey the reasonable and proper orders or directions of school authorities”—are
8 vague on their face. These terms fail to define the offense sufficiently to provide
9 notice to the average child who is expected to comply with its terms of what conduct
10 is prohibited or to provide sufficient guidance to those charged with its enforcement,
11 authorizing and encouraging arbitrary and discriminatory enforcement.

12 152. Section 601 is the basis for Plaintiffs’ referral to and their placement on
13 YAT probation.

14 153. Defendants’ enforcement of Section 601(b) causes serious, irreparable,
15 and lasting harm to Plaintiffs, and they will continue to suffer irreparable harm in
16 the absence of relief.

17 154. The mission of Sigma Beta Xi is also frustrated by Defendants’
18 enforcement of Section 601(b), and Sigma Beta Xi continues to divert resources as a
19 result.

20 **THIRD CLAIM FOR RELIEF**

21 **Violation of the Due Process Clause of the Fourteenth Amendment**
22 **to the U.S. Constitution**
23 **42 U.S.C. § 1983**
24 **(Welf. & Inst. Code § 601 is Vague as Applied in Violation of Due Process)**
25 **(All Plaintiffs Against All Defendants)**

26 155. Plaintiffs incorporate herein by reference the allegations of Paragraphs
27 1 through 140 as though fully set forth herein.

1 156. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
2 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
3 of the certified class.

4 157. The Due Process Clause of the Fourteenth Amendment protects against
5 the deprivation of life, liberty, or property without due process of law.

6 158. Defendants apply Section 601, *inter alia*, through their criteria for
7 referral and in their citation of Section 601 to place children on YAT probation.
8 Defendants, as a matter of policy, practice, and custom, apply Section 601 in a
9 manner that is overly vague. As applied by Defendants, Section 601 fails to define
10 the offense sufficiently to provide notice to the average child of what conduct is
11 prohibited or to provide sufficient guidance to those charged with its enforcement,
12 authorizing and encouraging arbitrary and discriminatory enforcement.

13 159. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
14 under the Fourteenth Amendment of the United States Constitution and cause
15 serious, irreparable, and lasting harm to these children, which they will continue to
16 suffer in the absence of relief.

17 160. The mission of Sigma Beta Xi is also frustrated by Defendants’ policy,
18 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

19 **FOURTH CLAIM FOR RELIEF**

20 **Violation of the Fourth Amendment to the U.S. Constitution**
21 **42 U.S.C. § 1983**
22 **(Unreasonable Search And Seizure)**
(Plaintiffs Sigma Beta Xi., Jacob T., and J.F. Against All Defendants)

23 161. Plaintiffs incorporate herein by reference the allegations of Paragraphs
24 1 through 140 as though fully set forth herein.

25 162. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
26 by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the
27 certified class.

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1 163. The Fourth Amendment of the United States Constitution protects the
2 right to be free from unreasonable search and seizure.

3 164. Defendants, as a matter of policy, practice, and custom, *inter alia*,
4 impose blanket search terms as a condition of YAT probation. These terms, as
5 incorporated in YAT probation contracts, purport to authorize search of a child’s
6 person—including through drug testing—property, and premises. Defendants rely
7 on these terms of YAT probation contracts to conduct drug testing and home
8 searches of Plaintiffs without a warrant.

9 165. As a matter of policy, practice, and custom, Plaintiffs are not informed
10 that these terms constitute a waiver of their rights under the Fourth Amendment. The
11 terms are presented in a context that is coercive and in which Plaintiffs, children
12 facing their first encounter with the justice system, are utterly lacking in relevant
13 information. Any purported waiver or blanket consent to searches of their person,
14 home, and property is not voluntary, knowing, or intelligent and is thus invalid.

15 166. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
16 under the Fourth Amendment of the United States Constitution and cause serious,
17 irreparable, and lasting harm to these children, which they will continue to suffer in
18 the absence of relief.

19 167. The mission of Sigma Beta Xi is also frustrated by Defendants’
20 policies, practices, and customs, and Sigma Beta Xi continues to divert resources as
21 a result.

22 **FIFTH CLAIM FOR RELIEF**

23 **Violation of the First Amendment to the U.S. Constitution**
24 **42 U.S.C. § 1983**
25 **(Overbreadth, Violation of Freedom of Expressive Association)**
26 **(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

27 168. Plaintiffs incorporate herein by reference the allegations of Paragraphs
28 1 through 140 as though fully set forth herein.

1 169. This claim is brought by Plaintiffs Sigma Beta Xi on behalf of itself
2 and by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the
3 certified class.

4 170. The First Amendment protects against overly broad laws that abridge
5 the freedom of speech and the fundamental right to freedom of expressive
6 association.

7 171. Defendants, as a matter of policy, practice, or custom, impose YAT
8 probation conditions that prohibit association with “anyone not approved” by
9 Defendants and prohibit children from having “any negative contact with anyone.”
10 These terms are overbroad on their face because they reach a substantial amount of
11 First Amendment protected activity. Any purported waiver or consent to such
12 conditions is not knowing, voluntary, or intelligent and is thus invalid.

13 172. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
14 under the First Amendment of the United States Constitution and cause serious,
15 irreparable, and lasting harm to these children, which they will continue to suffer in
16 the absence of relief.

17 173. The mission of Sigma Beta Xi is also frustrated by Defendants’ policy,
18 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

19 **SIXTH CLAIM FOR RELIEF**

20 **Violation of Art. I, § 7 of the California Constitution**
21 **(Deprivation of the Right to Procedural Due Process)**
22 **(All Plaintiffs Against All Defendants)**

23 174. Plaintiffs incorporate herein by reference the allegations of Paragraphs
24 1 through 140 as though fully set forth herein.

25 175. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
26 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
27 of the certified class.

1 176. The California Constitution, Article I, section 7 provides that “a person
2 may not be deprived of life, liberty, or property without due process of law.”

3 177. Plaintiffs have a fundamental interest in their liberty to be free from the
4 constraints of probationary supervision imposed by Defendants’ YAT probation
5 program. Defendants deprive Plaintiffs of their liberty interests without adequate
6 procedural protections.

7 178. Defendants have a policy, practice, and custom of placing children on
8 YAT probation through unfair procedures that deny Plaintiffs the ability to act in
9 their own best interest and to make a voluntary, knowing, and intelligent decision
10 regarding whether to accept YAT probation.

11 179. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
12 under Article I § 7 of the California Constitution and cause serious, irreparable, and
13 lasting harm to these children, which they will continue to suffer in the absence of
14 relief.

15 180. The mission of Sigma Beta Xi is also frustrated by the unlawful policy,
16 practice, and custom of Defendants, and Sigma Beta Xi continues to divert resources
17 as a result.

18 **SEVENTH CLAIM FOR RELIEF**

19 **Violation of Art. I, § 13 of the California Constitution**
20 **(Unreasonable Search And Seizure)**
21 **(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

22 181. Plaintiffs incorporate herein by reference the allegations of Paragraphs
23 1 through 140 as though fully set forth herein.

24 182. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
25 by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the
26 certified class.

27 183. Article I, section 13 of the California Constitution protects the right to
28 be free from unreasonable search and seizure.

1 184. Defendants, as a matter of policy, practice, and custom, impose blanket
2 search terms as a condition of YAT probation. These terms, as incorporated in YAT
3 probation contracts, purport to authorize search of a child’s person—including
4 through drug testing—property, and premises. Defendants rely on these terms of
5 YAT probation contracts to conduct drug testing and home searches of Plaintiffs
6 without a warrant.

7 185. As a matter of policy, practice, and custom, Plaintiffs are not informed
8 that these terms constitute a waiver of their rights under the Fourth Amendment. The
9 terms are presented in a context that is coercive and in which Plaintiffs, children
10 facing their first encounter with the justice system, are utterly lacking in relevant
11 information. Any purported waiver or blanket consent to searches of their person,
12 home, and property is not voluntary, knowing, or intelligent and is thus invalid.

13 186. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
14 under the Article I, section 13 of the California Constitution and cause serious,
15 irreparable, and lasting harm to these children, which they will continue to suffer in
16 the absence of relief.

17 187. The mission of Sigma Beta Xi is also frustrated by Defendants policy,
18 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

19 **EIGHTH CLAIM FOR RELIEF**

20 **Violation of Art. I, §§ 2a, 3 of the California Constitution**
21 **(Overbreadth, Violation of Freedom of Expressive Association)**
22 **(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

23 188. Plaintiffs incorporate herein by reference the allegations of Paragraphs
24 1 through 140 as though fully set forth herein.

25 189. This claim is brought by Plaintiffs Sigma Beta Xi on behalf of itself
26 and by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the
27 certified class.

1 190. Article I, sections 2a and 3 of the California Constitution protect
2 against overly broad laws that abridge the freedom of speech and the fundamental
3 right to freedom of expressive association.

4 191. Defendants, as a matter of policy, practice, or custom, impose YAT
5 probation conditions that prohibit association with “anyone not approved” by
6 Defendants and prohibit children from having “any negative contact with anyone.”
7 These terms are overbroad on their face because they reach a substantial amount of
8 protected speech and expressive activity. Any purported waiver or consent to such
9 conditions is not knowing, voluntary, or intelligent and is thus invalid.

10 192. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
11 under Article I, sections 2a and 3 of the California Constitution and cause serious,
12 irreparable, and lasting harm to these children, which they will continue to suffer in
13 the absence of relief.

14 193. The mission of Sigma Beta Xi is also frustrated by Defendants’ policy,
15 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

16 **NINTH CLAIM FOR RELIEF**

17 **Violation of Art. I, § 7 of the California Constitution**
18 **(Welf. & Inst. Code § 601 is Overly Vague on Its Face**
19 **in Violation of Due Process)**
20 **(All Plaintiffs Against All Defendants)**

21 194. Plaintiffs incorporate herein by reference the allegations of Paragraphs
22 1 through 140 as though fully set forth herein.

23 195. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
24 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
25 of the certified class.

26 196. Article I § 7 of the California Constitution protects against the
27 deprivation of life, liberty, or property without due process of law.

1 197. The terms of Section 601(b)—prohibiting “persistent or habitual refusal
 2 to obey the reasonable and proper orders or directions of school authorities”—are
 3 vague on their face. These terms fail to define the offense sufficiently to provide
 4 notice to the average child who is expected to comply with its terms of what conduct
 5 is prohibited or to provide sufficient guidance to those charged with its enforcement,
 6 authorizing and encouraging arbitrary and discriminatory enforcement.

7 198. Section 601 is the basis for Plaintiffs’ referral to and their placement on
 8 YAT probation.

9 199. Defendants’ enforcement of Section 601(b) causes serious, irreparable,
 10 and lasting harm to Plaintiffs, and they will continue to suffer irreparable harm in
 11 the absence of relief.

12 200. The mission of Sigma Beta Xi is also frustrated by Defendants’
 13 enforcement of Section 601(b), and Sigma Beta Xi continues to divert resources as a
 14 result.

15 **TENTH CLAIM FOR RELIEF**

16 **Violation of Art. I, § 7 of the California Constitution**
 17 **(Welf. & Inst. Code § 601 is Vague as Applied in Violation of Due Process)**
 18 **(All Plaintiffs Against All Defendants)**

19 201. Plaintiffs incorporate herein by reference the allegations of Paragraphs
 20 1 through 140 as though fully set forth herein.

21 202. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
 22 by Plaintiffs Andrew M., Jacob T. and J.F. on behalf of themselves and the members
 23 of the certified class.

24 203. Article I, section 7 of the California Constitution protects against the
 25 deprivation of life, liberty, or property without due process of law.

26 204. Defendants apply Section 601 through their criteria for referral and in
 27 their citation of Section 601 to place children on YAT probation. Defendants, as a
 28 matter of policy, practice, and custom, apply Section 601 in a manner that is overly

1 vague. As applied by Defendants, Section 601 fails to define the offense sufficiently
2 to provide notice to the average child of what conduct is prohibited or to provide
3 sufficient guidance to those charged with its enforcement, authorizing and
4 encouraging arbitrary and discriminatory enforcement.

5 205. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
6 under the California Constitution and cause serious, irreparable, and lasting harm to
7 these children, which they will continue to suffer in the absence of relief.

8 206. The mission of Sigma Beta Xi is also frustrated by Defendants’
9 policies, practices, and customs, and Sigma Beta Xi continues to divert resources as
10 a result.

11 **ELEVENTH CLAIM FOR RELIEF**

12 **Violation of California Government Code § 11135**
13 **(The YAT probation program has a significantly adverse impact on Black and**
14 **Latinx children)**
15 **(Plaintiffs Andrew M., Sigma Beta Xi, and J.F. against All Defendants)**

16 207. Plaintiffs incorporate herein by reference the allegations of Paragraphs
17 1 through 140 as though fully set forth herein.

18 208. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and
19 by Plaintiffs Andrew M. and J.F. on behalf of themselves and the members of the
20 certified class.

21 209. California Government Code section 11135 prohibits discrimination
22 “under any program or activity that . . . receives any financial assistance from the
23 state.”

24 210. Defendants’ operation of the YAT probation program has a
25 significantly adverse and disproportionate impact on Black and Latinx children,
26 including Plaintiffs Andrew M. and J.F. and the mentees of Plaintiff Sigma Beta Xi.

27 211. Defendants use a risk assessment instrument that results in Black and
28 Latinx children being scored as having a higher risk of future criminality, an

1 undefined concept, based upon broadly drafted questions that invite bias, and
2 perpetuate disparities and discrimination occurring elsewhere in the criminal system
3 and in school discipline. Black and Latinx children are scored as having higher risk
4 than similarly situated white children under Defendants’ formula.

5 212. Defendants’ policy, practice, and custom of placing children on YAT
6 probation contracts has an additional adverse and disparate impact on Black and
7 Latinx children. Even among children who score as having no risk, Black and
8 Latinx children are more likely than white children to be placed on YAT program
9 contracts.

10 213. Defendants’ policies, practices, and customs violate Plaintiffs’ rights
11 under California Government Code section 11135 and cause serious, irreparable,
12 and lasting harm to these children, which they will continue to suffer in the absence
13 of relief.

14 214. The mission of Sigma Beta Xi is also frustrated by Defendants’
15 policies, practices, and customs, and Sigma Beta Xi continues to divert resources as
16 a result.

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiffs respectfully request that the Court:

- 19 I. Assume jurisdiction of this matter;
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- 21 II. Appoint the individual Plaintiffs as Class Representatives;
- 22 III. Appoint Plaintiffs’ counsel as Class Counsel;
- 23 IV. Issue a declaratory judgment that:
- 24 A. California Welfare & Institutions Code section 601(b)’s
- 25 prohibition of “persistent or habitual refusal to obey the
- 26 reasonable and proper orders or directions of school authorities”
- 27 is unconstitutionally vague;
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- B. Defendants’ application of California Welfare & Institutions Code section 601 through the policies, practices, and customs of YAT is unconstitutionally vague;
- C. Defendants’ policy, practice, and custom of placing children in the YAT program under the circumstances described above, without adequate notice of (a) the charges against them or the underlying facts supporting the allegation, (b) their legal rights, including the right to consult with counsel, or (c) the possible consequences, and (d) under conditions that are coercive, misleading, and otherwise do not permit voluntary, knowing, and intelligent consent violates Plaintiffs’ rights under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution;
- D. Defendants’ policy, practice, and custom of searching the homes, belongings, and persons of children placed on YAT probation, including through drug testing, under the circumstances described above, violates Plaintiffs’ rights to be free from unreasonable searches under the Fourth Amendment of the U.S. Constitution and Article I, section 13 of the California Constitution;
- E. Defendants’ policy, practice, and custom of prohibiting children placed on YAT probation from associating with anyone not approved of by Defendants is overbroad and violates Plaintiffs’ rights under the First and Fourteenth Amendment of the U.S. Constitution, and violates Plaintiffs right to freedom of expressive association protected by the First Amendment of the U.S. Constitution; and

1 F. Defendants’ policy, practice, and custom of operating the YAT
2 probation program, including through utilizing its Risk
3 Assessment Form and the placement of children on YAT
4 probation, has a significant adverse impact on Black and Latinx
5 children in violation of California Government Code section
6 11135;

7 V. Issue an Order for injunctive relief enjoining Defendant from:

8 A. Enforcing California Welfare & Institutions Code section
9 601(b)’s prohibition of “persistent or habitual refusal to obey the
10 reasonable and proper orders or directions of school authorities”;

11 B. Continuing their policy, practice, and custom of applying
12 California Welfare & Institutions Code section 601 in an
13 unconstitutionally vague manner including through its referral
14 criteria and in placing children on YAT probation contracts;

15 C. Placing children on informal probation contracts, as described
16 above, or any other form of supervision by Defendant without
17 due process of law, including, but not limited to:

18 1. Notice containing, at a minimum: (a) an explanation of the
19 charges against a child and the specific conduct alleged to
20 violate the law; (b) an explanation of the juvenile court
21 process and of YAT probation sufficient for a child to
22 make an informed decision regarding participation in YAT
23 probation; (c) a statement of the child’s rights, including
24 the right to consult with an attorney, the right to be free
25 from unreasonable searches, and the right to freedom of
26 association; and (d) a statement of the consequences a
27 court would be authorized to issue based on the specific
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- facts of the offense, and all the consequences resulting from YAT;
- 2. Access to an attorney who can advise a child in deciding whether accepting YAT probation is in their best interest;
- D. Searching the homes, property, or persons of children placed on YAT probation on the basis of an informal probation contract, as described above, and without a warrant or a specific exception under the Fourth Amendment;
- E. Prohibiting children placed on YAT from associating with others “not approved of” by Defendants or others;
- F. Continuing to maintain or make use of any records generated through referral and placement of Named Plaintiffs and class members on YAT probation; and
- G. Operating the YAT probation program in a manner that has a significant adverse impact on Black and Latinx children, including but not limited to, the use of the Risk assessment form;
- VII. Award Plaintiffs Andrew M., Jacob T., and J.F. nominal damages in the amount of one dollar each for violations by Defendants of their constitutional rights;
- VIII. Award Plaintiffs’ costs and attorneys’ fees pursuant to 42 U.S.C. § 1988; and
- IX. Grant such equitable, further, and different relief as the Court deems just and proper.
- X. The declaratory and injunctive relief requested in this action is sought against each Defendant; against each Defendant’s officers, employees, and agents; and against all persons acting in active concert or

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participation with any Defendant, or under any Defendant's supervision, direction, or control.

Dated: September 26, 2018

Respectfully submitted,

/s/ Sylvia Torres-Guillén

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