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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TERESA FARRIS; WARDELL
BRAXTON; GIAVONNI KINSEY;
GUADELUPE MONTEJANO;
THOMAS EDDINGTON; PAUL
McVAY; FRANK MURILLO;
RICHARD VINSON, and all other
people who are similarly situated;

Plaintiffs,

v.

FRANKLIN COUNTY, SHERIFF
RICHARD LATHIM, and CAPTAIN
RICK LONG;

Defendants.

CLASS ACTION

No. 4:14-cv-05083-SAB

FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF

I. PRELIMINARY STATEMENT

1.1 Conditions at the Franklin County Jail in Pasco, Washington (“Jail”)

violate the constitutional rights of the people incarcerated there. Jail administrators

1 (“Defendants”) have ordered, authorized or condoned each of the following illegal
2 actions:

- 3 (a) chaining inmates to fixed objects for extended periods up to
4 days on end;
- 5 (b) holding inmates in restraint chairs for many hours without
6 adequate cause or supervision;
- 7 (c) pepper spraying inmates without adequate cause or supervision;
- 8 (d) locking all inmates in their cells for a minimum of 23 hours a
9 day;
- 10 (e) denying inmates regular outdoor exercise;
- 11 (f) completely denying all inmates visitation with friends and
12 family and severely limiting all contact between inmates and
13 their families; and
- 14 (g) disciplining inmates, seizing property and denying good time
15 without providing any procedural protections.

16
17 1.2 The Defendants lock all inmates in their cells for at least twenty three
18 hours per day, with no programming, religious services, and only very rare
19 opportunity to breathe fresh air or see the sun. Rather than provide inmates with
20 disciplinary procedures, due process or adequate exercise, the Defendants
21 indiscriminately utilize restraint chairs, shackles, long-term isolation, and pepper
22
23
24
25

1 spray in an attempt to maintain order and to punish inmates.

2 1.3 The Defendants' actions have caused inmates physical, emotional and
3 psychological injuries and deprived them of contact with their families.

4 1.4 The Defendants' actions violate the First, Eighth and Fourteenth
5 Amendments to the United States Constitution and Article I sections 3, 4, 5 and 14
6 of the Washington Constitution, as well as Defendants' duty to keep inmates at the
7 Jail in health and safety. The Defendants will continue to violate the rights of all
8 inmates absent injunctive and declaratory relief as requested below.
9

10 1.5 Inmates at the Jail have therefore brought this class action lawsuit
11 against the Jail administrators to stop the Jail's widespread unconstitutional
12 practices.
13

14 **II. PARTIES**

15 **A. PLAINTIFFS**

16 2.1 Plaintiff Teresa Farris is a pre-trial inmate who has been incarcerated
17 at the Jail since March 23, 2014.
18

19 2.2 Plaintiff Wardell Braxton is a pre-trial inmate who has been
20 incarcerated at the Jail since January 3, 2014.
21

22 2.3 Plaintiff Thomas Eddington is a pre-trial inmate who has been
23 incarcerated at the Jail since May 26, 2014.
24

25 2.4 Plaintiff Giavonni Kinsey is a pre-trial inmate who has been

1 incarcerated at the Jail since June 2, 2014.

2 2.5 Plaintiff Paul McVay is a pre-trial inmate who has been incarcerated
3 at the Jail since December 12, 2013.

4 2.6 Plaintiff Guadelupe Montejano is a pre-trial inmate who has been
5 incarcerated at the Jail since January 3, 2014.

6 2.7 Plaintiff Frank Murillo is a pre-trial inmate who has been incarcerated
7 at the Jail since April 30, 2014.

8 2.8 Plaintiff Richard Vinson is an inmate who has been incarcerated at the
9 Jail since July 18, 2014 except for a period of time during which he was
10 hospitalized at Eastern State Hospital.

11 **B. DEFENDANTS**

12 2.9 Defendant Franklin County is a political subdivision of the State of
13 Washington. It operates the Franklin County Corrections Center (“Jail”) in which it
14 incarcerates people who have been charged with crimes and are awaiting trial (pre-
15 trial inmates) and people who have been convicted of crimes and are serving
16 criminal sentences (post-conviction inmates).

17 2.10 The Jail is located at 1016 N. 4th, Pasco, Franklin County, Washington
18 99301.

19 2.11 As the Jail operator, Defendant Franklin County is responsible for the
20 health, safety, and treatment of inmates detained in the facility and for the Jail’s

1 staffing and operations.

2 2.12 Franklin County is responsible and liable for the actions of all Jail
3 employees.

4 2.13 As detailed below Defendant Franklin County has failed to properly
5 train or supervise Franklin County employees and failed to properly promulgate
6 policies and standards to ensure that the Jail is operated in a constitutional manner.
7

8 2.14 Franklin County has delegated authority for the operation and
9 management of the Jail to the Franklin County Sheriff's Office.
10

11 2.15 Defendant Richard Lathim is the Sheriff of Franklin County.

12 2.16 Defendant Lathim administers the Franklin County Sheriff's office
13 which includes several different divisions, including the Corrections Division.
14

15 2.17 The Corrections Division is responsible for operating the Jail.

16 2.18 Defendant Lathim is the Franklin County employee ultimately
17 responsible for the health, safety, and treatment of inmates detained in the Jail and
18 for ensuring the Jail's safe and lawful operations.
19

20 2.19 Defendant Lathim has delegated day to day operations of the Jail to
21 his subordinate Defendant Rick Long.

22 2.20 Defendant Lathim is regularly on-site at the Jail.

23 2.21 The material facts set out below are known to Defendant Lathim and
24 all actions described were taken or continue to be taken by Jail staff at his explicit
25

1 direction and/or with his knowledge and consent.

2 2.22 In addition, as detailed below, Defendant Lathim has failed to
3 properly train or supervise Franklin County Sheriff's Department employees and
4 failed to properly promulgate policies and standards to ensure that the Jail is
5 operated in a constitutional manner.
6

7 2.23 Defendant Lathim is sued in his official capacity.

8 2.24 The Corrections Division employs a number of correctional officers
9 and other staff to operate the Jail.
10

11 2.25 Defendant Captain Rick Long is head of the Corrections Division and
12 the Jail's chief administrator.

13 2.26 As chief administrator of the Jail, Defendant Long immediately
14 supervises all Jail employees and creates and administers Jail policies, procedures
15 and standards.
16

17 2.27 Defendant Long is responsible for the health, safety, and treatment of
18 inmates detained in the facility and for the Jail's staffing and operation.
19

20 2.28 As the chief Jail administrator, Defendant Long is responsible and
21 liable for the actions of all Jail employees.

22 2.29 Defendant Long is physically present at the Jail on a regular basis and
23 oversees its day to day operations.
24

25 2.30 The material facts set out below are known to Defendant Long and all

1 actions described were taken or continue to be taken by Jail staff at his explicit
2 direction and/or with his knowledge and consent.

3 2.31 In addition, as detailed below, Defendant Long has failed to properly
4 train or supervise Corrections Division employees and failed to properly
5 promulgate policies and standards to ensure that the Jail is operated in a
6 constitutional manner.
7

8 2.32 Defendant Long is sued in his official capacity.
9

10 **III. JURISDICTION AND VENUE**

11 3.1 This Court has jurisdiction over the federal claims presented in this
12 action pursuant to 28 U.S.C. § 1331 (federal question) and 42 U.S.C. § 1983 (civil
13 rights). Declaratory relief is authorized by 28 U.S.C. §§ 2201 - 2202. This Court
14 has supplemental jurisdiction over the state law claims presented in this action
15 pursuant to 28 U.S.C. § 1367.
16

17 3.2 Venue is proper in this judicial district under 28 U.S.C. § 1391(b)
18 because all of the events that support the allegations occurred in this judicial
19 district and because the Plaintiffs are incarcerated in this judicial district.
20

21 **IV. CLASS ACTION ALLEGATIONS**

22 4.1 Plaintiffs named above bring this action on their own behalves and
23 pursuant to Rule 23(a) and 23(b) (2) of the Federal Rules of Civil Procedure, on
24 behalf of a class of similarly situated persons.
25

1 4.2 The proposed class is defined as:

2 All people who are currently incarcerated in the Franklin
3 County Corrections Center and all people who will be
4 incarcerated there in the future.

5 4.3 The Plaintiffs bring all claims asserted below on behalf of themselves
6 and all members of the class.

7 4.4 The Plaintiff class is so numerous that joinder is impracticable. The
8 Jail houses, on average, more than 180 men and women per day.

9 4.5 There are questions of law common to the Plaintiff class including:

10 (a) Whether the Defendants require, authorize and/or condone the
11 unreasonable, unconstitutional use of force against people
12 incarcerated at the Jail;

13 (b) Whether the Defendants require, authorize and/or condone the
14 unreasonable, unconstitutional use of restraints against people
15 incarcerated at the Jail;

16 (c) Whether the Defendants require, authorize and/or condone the
17 unreasonable, unconstitutional isolation of people incarcerated
18 at the Jail in inhumane and barbaric conditions;

19 (d) Whether the Defendants require, authorize and/or condone the
20 unreasonable, unconstitutional lockdown of people incarcerated
21 at the Jail in their cells for 23 hours or more per day;

1 (e) Whether the Defendants require, authorize and/or condone the
2 unreasonable, unconstitutional denial of access to the out of
3 doors to people incarcerated at the Jail;

4 (f) Whether the Defendants require, authorize and/or condone the
5 imposition of discipline, the seizure of property or the denial of
6 good time without due process of law to inmates incarcerated at
7 the Jail;

8 (g) Whether the Defendants require, authorize and/or condone the
9 unreasonable, unconstitutional denial of contact between people
10 incarcerated in the Jail and their families and friends; and

11 (h) Whether the Defendants otherwise require, authorize and/or
12 condone unreasonable, unconstitutional conditions to which
13 people incarcerated in the Jail are subject.
14
15
16

17 4.6 The claims of the named Plaintiffs are typical of the claims or
18 defenses of the class.

19 4.7 The named Plaintiffs are represented by experienced class counsel and
20 will fairly and adequately protect the interests of the class.
21

22 4.8 The Defendants have acted and refused to act on grounds generally
23 applicable to the class, thereby making appropriate class-wide injunctive and
24 declaratory relief.
25

V. FACTS

1
2 5.1 The Jail was originally built to house 105 inmates, but has held up to
3 239 people per night.

4 5.2 The Jail population fluctuates, but on average male inmates make up
5 approximately 87 percent of the Jail daily population.
6

7 5.3 People are booked into the Jail and other people are released from the
8 Jail every day.

9 5.4 Some people awaiting trial remain in the Jail for many months.
10

11 5.5 Other people live in the Jail while serving criminal sentences or
12 serving out violations of community custody or other conditions of their criminal
13 sentences.

14 5.6 The Jail is currently undergoing an expansion and remodel.

15 5.7 The remodeling of the Jail will not resolve the unconstitutional
16 conditions described below.
17

18 **A. IMPROPER USE OF FORCE AND RESTRAINTS**

19 5.8 The Defendants authorize and supervise the regular and inappropriate
20 use of force and restraints by Jail staff against inmates.
21

22 5.9 A jail's use of force against inmates is constitutional only in limited
23 circumstances involving self-defense, protection of others, protection of property,
24 and to prevent escapes.
25

1 5.10 Jail staff may use physical force only as a last resort.

2 5.11 A jail's use of restraints is constitutional only in limited circumstances
3 and only as long as is necessary to address an immediate threat of harm to people
4 or property.

5
6 5.12 Any use of force or restraints must be done in accordance with
7 specific, written policies, procedures and standards.

8 5.13 A jail may not use physical force or restraints to punish inmates.

9
10 5.14 The Defendants' actions regularly violate these constitutional
11 limitations.

12 5.15 At the Defendants' instructions and with their consent, Jail staff
13 regularly:

- 14 (a) chain inmates to fixed objects for long periods of time;
15 (b) strap inmates into a restraint chair without adequate cause,
16 proper supervision or training;
17 (c) otherwise restrain inmates without adequate cause, proper
18 supervision or training;
19 (d) pepper spray inmates without adequate cause, proper
20 supervision or training; and
21 (e) lock inmates into segregation or isolation without adequate
22 cause, proper supervision or training and in deplorable and
23
24
25

1 inhumane conditions.

2 5.16 Jail staff under the Defendants' direct supervision use force and
3 restraints against inmates, many of whom suffer from medical or mental health
4 conditions that are exacerbated by the inappropriate conduct.

5
6 5.17 The Defendants have explicitly authorized Jail staff to use chains,
7 pepper spray, the restraint chair, and segregation or isolation, against or on inmates
8 in an unreasonable and unconstitutional manner or have consented to such use.

9
10 5.18 The Defendants have not promulgated adequate written policies,
11 procedures or standards that govern the Jail staff's use of restraints, pepper spray,
12 or segregation or isolation, against or on inmates.

13 5.19 Upon information and belief, the Defendants have not properly trained
14 Jail staff on the use of restraints, pepper spray, or segregation or isolation, against
15 or on inmates.

16
17 5.20 The Defendants have failed to properly supervise Jail staff and so Jail
18 staff has used restraints, pepper spray, and segregation or isolation, against or on
19 inmates in an unreasonable and unconstitutional manner.

20
21 5.21 Because the Defendants have not promulgated adequate written
22 policies, procedures or standards, and have not trained or properly supervised Jail
23 staff, the staff will continue to use unreasonable, unconstitutional levels of force
24 and restraints against people incarcerated at the Jail into the future, absent court
25

1 action enjoining Defendants' conduct.

2 5.22 As a result of the Defendants' unconstitutional conduct, Plaintiffs and
3 members of the class have suffered physical, mental and emotional injuries and
4 pain and suffering. Plaintiffs and members of the class will continue to suffer such
5 injuries in the future absent court action enjoining Defendants' conduct.
6

7 **B. FACTS ABOUT CHAINS, SHACKLES AND THE RESTRAINT**
8 **CHAIR**

9 5.23 A jail may not use restraints that cause physical injury or pain to
10 inmates or as a form of punishment.

11 5.24 The Defendants use a restraint chair and shackles to punish inmates.

12 5.25 A restraint chair is a device into which an inmate is strapped at the
13 hands, legs and chest.
14

15 5.26 Once strapped into the restraint chair, the inmate is completely
16 immobilized and unable to feed himself, obtain water to drink, or use a bathroom
17 without the intervention of Jail staff.
18

19 5.27 Unless Jail staff provide the inmate with water and food and allow the
20 inmate out of the restraint chair to use the bathroom, the inmate will have no
21 access to food or water, and will be forced to urinate or defecate upon himself.
22

23 5.28 At times, Jail staff also place a hood over an inmate's head while the
24 inmate is immobilized in the restraint chair.
25

1 5.29 At times, Jail staff has placed a motorcycle helmet over an inmate's
2 head while the inmate is immobilized in the restraint chair.

3 5.30 Inmates confined to a restraint chair must be closely evaluated by
4 qualified professionals prior to being restrained to identify medical or mental
5 health conditions that would render use of the chair inhumane and pose a serious
6 risk of harm.

7
8 5.31 Inmates confined to a restraint chair must be closely monitored while
9 restrained to the chair to ensure that the use of the restraint chair does not
10 exacerbate or create medical or mental health conditions.

11
12 5.32 Inmates should not be restrained in a restraint chair for more than a
13 short period of time.

14 5.33 Inmates held in a restraint chair must be given periodic breaks during
15 which they can stretch out their legs, arms and backs, and use the restroom.

16 5.34 Only inmates who constitute an immediate danger to themselves or
17 others may be restrained in a restraint chair.

18
19 5.35 Inmates must be removed from a restraint chair as soon as they no
20 longer constitute a threat to themselves or others.

21 5.36 Inmates must be removed from a restraint chair immediately upon the
22 cessation of the behavior that caused them to be placed in the chair.
23

24 5.37 A restraint chair should only be used as a last resort, and should not be
25

1 used when any other less restrictive means to protect the inmate or others is
2 available.

3 5.38 A restraint chair may only be used at the direction and supervision of
4 a qualified medical professional who has evaluated the person to be restrained in
5 the chair and determined that it is the only appropriate means to protect the
6 individual or others under the circumstances.
7

8 5.39 A qualified medical professional must authorize any prolonged
9 restraint of a person in the chair following direct observation of the individual
10 being restrained.
11

12 5.40 The same or similarly qualified, medical professional must
13 reauthorize use of a restraint chair on a periodic basis throughout the duration of
14 the person's restraint.
15

16 5.41 Jail staff must constantly monitor and observe the person restrained in
17 a restraint chair to ensure that the person is not suffering pain or injury because of
18 the restraints.
19

20 5.42 Use of a restraint chair without proper medical supervision and for a
21 prolonged period of time can cause serious medical complications and injure the
22 person restrained in the chair.
23

24 5.43 Jail staff do not place the restraint chair in a private area with
25 adequate or direct supervision.

1 5.44 Instead, as of the filing of this lawsuit, the Defendants have authorized
2 Jail staff to use the restraint chair in the Booking Area of the Jail, one of the most
3 well-traveled areas of the Jail.

4 5.45 Inmates, correctional officers, staff members, construction workers,
5 police officers and other people are present in the Booking Area of the Jail
6 throughout the day and night.

7 5.46 Any inmate who is being transported to court or leaving the Jail
8 travels through the Booking Area.
9

10 5.47 Inmates meet with their attorneys in the Booking Area.

11 5.48 Construction workers work in and around the Booking Area
12 throughout the day.
13

14 5.49 People who have been arrested and brought to the Jail are processed in
15 the Booking Area within feet of the person being restrained.
16

17 5.50 Every person who enters the Booking Area sees the person restrained
18 in the restraint chair.
19

20 5.51 The Defendants' practice is to strap the inmate down in the restraint
21 chair and turn the restraint chair to a wall so that the inmate stares at only the wall.

22 5.52 Jail staff restrain inmates in the restraint chair for hours or days on
23 end, often in nothing but their underwear or naked.
24

25 5.53 People in the restraint chair sometimes urinate or defecate upon

1 themselves.

2 5.54 People in the restraint chair sometimes beg to be released from the
3 chair.

4 5.55 People held in the restraint chair in the Booking Area are subject to
5 on-going and public humiliation in the most heavily trafficked area of the Jail.
6

7 5.56 Qualified medical professionals do not monitor the person restrained
8 in the chair or perform evaluations of the person before being restrained in the
9 chair.
10

11 5.57 Qualified medical professionals do not authorize the initial use of the
12 restraint chair and do not authorize on-going use of the restraint chair.

13 5.58 Inmates in the restraint chair have been denied regular bathroom
14 breaks and been forced to remain in the chair for many hours without being able to
15 move their limbs or get out of the chair and move around.
16

17 5.59 The Defendants have directed Jail staff to utilize the restraint chair in
18 this manner or have approved of the use of the chair in this manner.
19

20 5.60 The Defendants have not promulgated adequate written standards by
21 which Jail staff can appropriately measure the use of the restraint chair or
22 determine the conditions under which it is warranted.

23 5.61 The Defendants have not promulgated adequate written policies or
24 procedures regarding the restraint chair that ensure that inmates are properly cared
25

1 for while restrained and only restrained for an appropriate period of time.

2 5.62 The Defendants have not trained Jail staff on the appropriate use of
3 the restraint chair.

4 5.63 The Defendants have restrained Plaintiffs McVay, Montejano, Kinsey,
5 and Vinson in the restraint chair on a number of occasions during the Spring and
6 Summer of 2014 for many hours without adequate cause and without proper
7 monitoring.
8

9 5.64 Jail staff placed Plaintiff Vinson in the restraint chair after he engaged
10 in self-harm and kept him there for a number of days.
11

12 5.65 Mr. Vinson was placed in the restraint chair on or before July 31,
13 2014.
14

15 5.66 As of the filing of this lawsuit on August 2, 2014, Mr. Vinson
16 remained in the restraint chair.

17 5.67 Since returning from Eastern State Hospital, Mr. Vinson has been
18 chained to a concrete structure at the Jail for long periods of time.
19

20 5.68 Mitchell Campbell was booked into the Franklin County Jail.

21 5.69 A few days later, on July 12, 2014, Mr. Campbell was found dead in
22 his cell.
23

24 5.70 Defendants report that he died from a brain injury caused by an
25 alcohol-induced seizure and fall.

1 5.71 Mr. Campbell had been held in the restraint chair for a period of time
2 between his booking and his death.

3 5.72 On two occasions, the Defendants held Plaintiff McVay in the
4 restraint chair for 20 hours or more at a time.

5
6 5.73 On at least one occasion, Mr. McVay was forced to urinate on himself
7 because the Defendants did not provide him with timely access to a bathroom.

8 5.74 Plaintiff Montejano was restrained in the chair on a number of
9 occasions, once for more than 12 hours.

10
11 5.75 Jail staff placed Plaintiff Giavonni Kinsey in the restraint chair for
12 hours on at least two occasions without justification and without proper
13 monitoring.

14 5.76 Mr. Kinsey was forced to urinate upon himself because Jail staff
15 refused to allow him regular bathroom breaks.

16
17 5.77 Plaintiffs McVay, Montejano, Kinsey and Vinson were restrained in
18 metal handcuffs and ankle shackles while also restrained in the chair by restraint
19 chair straps.

20
21 5.78 The metal handcuffs and ankle shackles chafed the men's wrists and
22 ankles causing blistering and pain.

23 5.79 No medical personnel evaluated the men prior to or during any of
24 their time in the restraint chair to determine whether the use of the restraint chair
25

1 was medically appropriate.

2 5.80 The men were restrained in the restraint chair far beyond any
3 reasonable time and far beyond any time necessary to ensure that the men were not
4 a danger to themselves or others.

5
6 5.81 The Defendants regularly strap other inmates into the restraint chair
7 for long periods of time without adequate cause and without proper supervision or
8 medical monitoring, for a longer duration than necessary, and when other less
9 restrictive alternatives exist.

10
11 5.82 Jail staff regularly use the restraint chair against inmates who pose no
12 risk to themselves or others.

13 5.83 Jail staff regularly use the restraint chair against inmates when other
14 less restrictive alternatives exist.

15
16 5.84 Jail staff regularly use the restraint chair against inmates with mental
17 illness or medical conditions without providing proper mental health care or
18 keeping them in a more appropriate therapeutic setting.

19
20 5.85 Jail staff, at the Defendants' direction or with their approval, regularly
21 chain inmates to fixed objects for long periods of time and in a manner that causes
22 physical and psychological injury to inmates.

23 5.86 It is never appropriate to chain any person to a fixed object for longer
24 than a brief period.

1 5.87 There is always an appropriate, less restrictive alternative to chaining
2 people to a fixed object for longer than a brief period.

3 5.88 Chaining inmates with mental illness to fixed objects for long periods
4 of time is particularly cruel.

5
6 5.89 Jail staff, at the Defendants' direction or with their approval, chain
7 inmates to fixed objects for hours or days on end without proper medical
8 evaluation or monitoring.

9
10 5.90 Jail staff, at the Defendants' direction or with their approval, have
11 regularly chained people to a fence, cage or other fixed object in the Booking Area
12 of the Jail.

13 5.91 Jail staff, at the Defendants' direction or with their approval leave
14 these inmates chained to the fence or cage for hours or days on end.

15
16 5.92 Inmates chained to the fence are forced to sleep on a thin mat on the
17 floor of the Booking Area.

18 5.93 Upon information and belief, many of the inmates Jail staff chain up
19 in the Booking Area suffer from serious mental health conditions.

20
21 5.94 Many of the inmates Jail staff chain up in the Booking Area, at the
22 Defendants' direction or with their approval, are suffering from suicidal thoughts.

23 5.95 Jail staff, at the Defendants' direction or with their approval, chain
24 these inmates up rather than provide them appropriate mental health care or hold
25

1 them in an appropriate therapeutic setting.

2 5.96 Jail staff, at the Defendants' direction or with their approval, chained
3 Plaintiff Vinson to the fence for at least a week in July 2014.

4 5.97 Jail staff used metal cuffs to shackle Mr. Vinson's right ankle to the
5 fence by a short metal chain.
6

7 5.98 Mr. Vinson remained on a mat on the floor shackled in this way for a
8 number of days and nights.

9 5.99 Mr. Vinson is currently incarcerated in the Franklin County Jail for
10 driving a vehicle with a suspended license and for unpaid legal financial
11 obligations.
12

13 5.100 On information and belief, Mr. Vinson suffers from severe mental
14 illness.
15

16 5.101 After a week of being chained to the fence in the Booking Area and
17 sleeping on the floor in view of anyone who entered the Booking Area, Mr. Vinson
18 bit off his left pinky.

19 5.102 Jail staff transported Mr. Vinson to the hospital and returned him to
20 the Booking Area floor the same night.
21

22 5.103 Upon Mr. Vinson's return to the Jail, Jail staff, at the Defendants'
23 direction or with their approval, chained Mr. Vinson's right ankle and right wrist to
24 the fence with metal cuffs.
25

1 5.104 Sometime later, Mr. Vinson injured another finger on his left hand.
2 Jail staff, at the Defendants' direction or with their approval, then chained Mr.
3 Vinson into a chair.

4 5.105 Also in July 2014, Jail staff, at the Defendants' direction or with their
5 approval, chained a woman to the fence for four days with a metal cuff around her
6 left ankle wearing only a suicide smock.
7

8 5.106 The woman repeatedly assured staff that she was not suicidal and
9 wanted to be released from the fence.
10

11 5.107 Jail staff refused to release the woman from the fence.

12 5.108 Four days after the woman was chained, a mental health specialist
13 finally spoke with her briefly and immediately sent her back to her cell.
14

15 5.109 Jail staff, at the Defendants' direction or with their approval, have
16 regularly chained other inmates to a fence, cage or other fixed object by their legs
17 or arms using metal cuffs for prolonged periods of time.

18 5.110 This prolonged shackling causes injuries to wrists and ankles that
19 worsen the longer the Defendants keep the people chained.
20

21 5.111 Jail staff, at the Defendants' direction or with their approval, also
22 regularly chain inmates to fixed objects with metal cuffs and shackles in other parts
23 of the Jail.
24

25 5.112 The Defendants have chained Plaintiffs McVay, Montejano and

1 Kinsey to fixed objects with shackles and chains.

2 5.113 Jail staff, at the Defendants' direction or with their approval, chained
3 up Mr. Kinsey in a holding cell for three days during the spring of 2014.

4 5.114 Jail staff, at the Defendants' direction or with their approval, lay Mr.
5 Kinsey upon a slab in the holding cell and stretched his arms out above his head.
6

7 5.115 The Jail staff attached metal hand cuffs to Mr. Kinsey's wrists and
8 chained the handcuffs to a bracket installed on the wall of the holding cell.
9

10 5.116 The Jail staff also placed Mr. Kinsey in ankle shackles and chained
11 these shackles to another bracket installed on the opposite wall of the cell.

12 5.117 Mr. Kinsey was chained in this position for at least three days.

13 5.118 Jail staff, at the Defendants' direction or with their approval, chained
14 Mr. McVay in a similar manner for several hours in a holding cell in the Jail in
15 February 2014.
16

17 5.119 During the spring of 2014, Jail staff, at the Defendants' direction or
18 with their approval, shackled Plaintiffs McVay and Montejano and at least one
19 other man in four point restraints in their cells.
20

21 5.120 The restraints used to hold Mr. McVay, Mr. Montejano and the third
22 man included metal handcuffs and ankle shackles attached by a chain around the
23 waist.
24

25 5.121 Mr. Montejano and the third man remained in their cells in these

1 shackles for a number of days without being released.

2 5.122 While Mr. Montejano and the other man were chained up in their
3 cells, Jail staff, at the Defendants' direction or with their approval, confined Mr.
4 McVay for over 20 hours in the restraint chair and additional time shackled in his
5 cell.
6

7 5.123 On or around June 2, 2014, Jail staff, at the Defendants' direction or
8 with their approval, bolted steel plates with a metal ring to the floors of Mr.
9 Montejano's and Mr. McVay's cells.
10

11 5.124 Jail staff, at the Defendants' direction or with their approval, placed
12 each man in ankle shackles that were attached by chain to two pairs of metal
13 handcuffs.
14

15 5.125 Jail staff, at the Defendants' direction or with their approval, then
16 attached this device to the steel plates bolted to the cell floors with a cable.
17

18 5.126 Both men broke the cable cord but remained handcuffed and in ankle
19 shackles.
20

21 5.127 Jail staff replaced the cable cord with a large chain and padlock the
22 next day and these Plaintiffs were again restrained.
23

24 5.128 While in mechanical restraints and shackled to the floor, these
25 Plaintiffs had serious difficulty standing up or laying down.

5.129 The extended periods of shackling caused injury to each man and

1 exacerbated physical conditions.

2 5.130 The long-term use of metal handcuffs and ankle shackles caused
3 blisters, sores and open wounds to the men's wrists and ankles.

4 5.131 The injuries to their wrists and ankles worsened over the hours and
5 days in which the men were shackled.

6 5.132 No qualified medical professional conducted a proper medical or
7 mental health evaluation of any of the people chained up as described above before
8 the individuals were so restrained.

9 5.133 The Defendants did not provide on-going medical or mental health
10 monitoring to any of the people during the period in which they were chained up as
11 described above.

12 5.134 The Defendants' chaining has caused the named Plaintiffs and all
13 people subject to these chaining practices imposed by Jail staff physical injuries
14 and pain and suffering.

15 5.135 The Defendants will continue to direct, authorize or consent to the
16 chaining of people incarcerated at the Jail in the future absent court action.

17 **C. FACTS ABOUT USE OF PEPPER SPRAY**

18 5.136 The Defendants authorize or condone the use of pepper spray to
19 punish inmates.

20 5.137 Pepper spray, also known as OC spray, OC gas or capsicum spray, is a

1 chemical agent that attacks the eyes, throat and nasal passages and causes severe
2 pain, blindness, uncontrollable coughing, and can in some cases permanently injure
3 someone sprayed or cause death.

4 5.138 Repeated exposure to OC spray can cause permanent injury.

5 5.139 The risk of death increases if individuals suffering from asthma, on
6 drugs, or subject to restraining techniques that restrict breathing passages are
7 sprayed.
8

9 5.140 Jail Staff carry pepper spray when on duty in the Jail.

10 5.141 Upon information and belief, the Defendants have not ensured that all
11 Jail Staff are properly trained in the appropriate use of pepper spray or the proper
12 means by which people who have been sprayed must be decontaminated.
13

14 5.142 Jail staff, at the Defendants' direction or with their approval, pepper
15 sprayed Plaintiffs McVay and Montejano on several occasions during the spring of
16 2014.
17

18 5.143 On number of occasions, Jail staff either opened Mr. McVay's cell
19 door and sprayed pepper spray directly into his eyes, nose and mouth without
20 sufficient cause or warning, or sprayed him with pepper spray though cracks in his
21 door or through the cuffport in his cell door without sufficient cause or warning.
22

23 5.144 On a number of occasions, Jail staff opened Mr. Montejano's cell
24 door and sprayed pepper spray directly into his eyes, nose and mouth without
25

1 sufficient cause or warning or sprayed him through cracks in his cell door or
2 through the cuffport in his cell door, even though he posed no immediate danger to
3 himself or others.

4 5.145 Jail staff, at the Defendants' direction or with their approval, has
5 pepper sprayed other members of the class in similar ways and in similar
6 circumstances.
7

8 5.146 Jail staff pepper sprayed these people without guidance from adequate
9 written policies, procedures or standards of use and without sufficient training.
10

11 5.147 Jail staff did not properly decontaminate Mr. McVay, Mr. Montejano,
12 or the other people who were sprayed after these pepper spraying incidents.
13

14 5.148 Jail staff did not provide Mr. McVay, Mr. Montejano or the other
15 people sprayed with appropriate medical treatment or evaluation after these pepper
16 spraying incidents.

17 5.149 Each of these pepper spraying incidents caused the people sprayed
18 severe pain and suffering.
19

20 5.150 The Defendants directed Jail staff to utilize pepper spray in the
21 manner described above, or after becoming aware that Jail staff were utilizing
22 pepper spray in the manner described above, took no action to better train or
23 supervise Jail staff on the proper use of pepper spray.
24

25 5.151 Jail staff will continue to use pepper spray against people incarcerated

1 at the Jail without cause, without proper training or supervision, without adequate
2 written policies, procedures or standards absent court intervention.

3 **D. FACTS ABOUT SEGREGATION AND ISOLATION**

4 5.152 The Defendants also punish inmates by placing them in isolation and
5 segregation.
6

7 5.153 The Defendants then subject inmates in segregation to demeaning and
8 inhumane conditions.

9 5.154 By policy, the Defendants have designated A and G Tanks in the Jail
10 as the segregation units of the Jail. Inmates and Jail staff call the segregation units
11 “the Hole.”
12

13 5.155 Jail Staff, at the Defendants’ direction or with their approval, place
14 inmates into segregation who Jail staff perceive to have violated Jail rules. These
15 inmates are not provided any hearing or process before being placed in
16 segregation.
17

18 5.156 The people in segregation units are housed in cells by themselves,
19 without a cellmate.
20

21 5.157 By written policy, the Defendants allow inmates in segregation out of
22 their cells for only one hour and only three days per week.
23

24 5.158 At all other times the people in segregation are locked alone in their
25 cells.

1 5.159 The Defendants sometimes punish inmates in segregation by denying
2 them clothing, mattresses and blankets.

3 5.160 The Defendants denied Plaintiffs McVay and Montejano clothing, a
4 blanket or a mattress for many weeks during the spring and summer of 2014 while
5 they were housed in G-Tank.
6

7 5.161 By seizing their mattresses, blankets and clothes, the Defendants
8 forced Mr. McVay and Mr. Montejano to sleep directly upon concrete slabs in their
9 cells and without any protection from the cold temperatures in their cells.
10

11 5.162 The Defendants have denied other inmates in segregation mattresses,
12 blankets and clothes.

13 5.163 Plaintiff McVay injured his shoulder as a result of sleeping on the
14 concrete slab with no mattress.
15

16 5.164 Plaintiff Montejano suffered severe back pain as a result of sleeping
17 on the concrete slab.

18 5.165 Until early August 2014, the lights in Mr. McVay and Mr.
19 Montejano's G-Tank isolation cells did not work and had not worked for many
20 weeks.
21

22 5.166 The Defendants refused to repair the lights.
23

24 5.167 Because of the lack of lights in the cells the men remained in the dark
25 for hours on end, for a number of weeks in 2014.

1 5.168 As a result of the lack of lighting in his cell, Plaintiff Montejano
2 tripped over the metal shackle plate the Jail staff, at the Defendants' direction or
3 with their approval, installed in his cell, and injured his knee.

4 5.169 The Defendants disconnected running water to Mr. Montejano and
5 Mr. McVay's G-Tank cells during the spring of 2014. The Defendants did not
6 restore water to the cells until July 29, 2014.

7 5.170 The lack of running water required Mr. Montejano and Mr. McVay to
8 sit in their cells in the presence of their own bodily waste for long periods of time.
9

10 5.171 G-Tank periodically floods, sending raw sewage into the cells.

11 5.172 Jail staff, at the Defendants' direction or with their approval, fail to
12 promptly clean up the G-Tank cells after these floods.
13

14 5.173 The Defendants refused to provide Mr. Montejano and Mr. McVay
15 cleaning supplies to clean their G-Tank cells for many months.
16

17 5.174 The Defendants finally allowed Mr. McVay and Montejano to mop
18 out their cells for the first time at the end of July, 2014.
19

20 5.175 The Defendants forced Mr. McVay and Montejano to live in filthy
21 and unsanitary conditions because the Defendants deprived them of the supplies
22 necessary to maintain minimally sanitary cells.
23

24 5.176 The Defendants treat other inmates in a similar fashion and will
25 continue to do so in the future absent court action.

1 5.177 Jail staff, at the Defendants' direction or with their approval, placed
2 Plaintiff Murillo in isolation and segregation and subjected him to the conditions in
3 G-Tank for a number of days in July 2014 without notice or an opportunity for a
4 hearing.

5
6 5.178 Jail staff, at the Defendants' direction or with their approval, placed
7 Plaintiff Kinsey in isolation and segregation and subjected him to the conditions in
8 G-Tank for number of days in June 2014 without notice or an opportunity for a
9 hearing.

10
11 5.179 Jail staff, at the Defendants' direction or with their approval, have
12 placed other people in isolation and segregation and subjected them to the
13 conditions in G-Tank in the recent past without notice or an opportunity for a
14 hearing.

15
16 5.180 After the filing of this lawsuit, the Defendants moved Mr. McVay and
17 Mr. Montejano out of G Tank into another unit.

18
19 5.181 Nothing bars the Defendants from subjecting the Plaintiffs or other
20 inmates to the conditions in G-Tank or conditions similar to those described above
21 as having existed in G-Tank in the future.

22
23 5.182 Jail staff, at the Defendants' direction or with their approval, continue
24 to hold other people in segregation. Nothing prohibits the Defendants from
25 subjecting other people to the conditions in G-Tank or conditions similar to those

1 described above as having existed in G-Tank in the future absent court
2 intervention.

3 5.183 The Defendants also segregate and isolate people in other areas of the
4 Jail.

5
6 5.184 Jail staff, at the Defendants' direction or with their approval, forced
7 Plaintiff Farris to live in a cell by herself for a number of days on twenty three hour
8 lockdown.

9
10 5.185 Ms. Farris suffers from mental illnesses which make her extremely
11 afraid of being alone.

12 5.186 During the period of time in which Defendants isolated her in her cell
13 by herself, Ms. Farris became seriously depressed and had thoughts of suicide.

14
15 5.187 Ms. Farris repeatedly asked Jail staff to move her into a cell with
16 another person.

17 5.188 Jail staff ignored or refused Ms. Farris' repeated requests.

18
19 5.189 Finally, a jail staff person took pity upon Ms. Farris and allowed her
20 to move into a cell with another person.

21 5.190 Jail staff, at the Defendants' direction or with their approval, also
22 placed Plaintiff Wardell Braxton into segregation for a period of time while he was
23 housed in another pod in the Jail.

24
25 5.191 Any person at the Jail may be placed into segregation or isolation for

1 any actual or perceived violation of unstated and unclear Jail rules or policies.
2 These actions by Defendants and Jail Staff are taken without any hearing or
3 process.

4 5.192 The Defendants threaten people incarcerated at the Jail with
5 segregation for even slight alleged transgressions.
6

7 **E. DENIAL OF DUE PROCESS**

8 5.193 The Defendants have isolated and segregated people, have seized their
9 property, taken away good time, deprived them of privileges, or disciplined them
10 in other ways without providing them with notice or an opportunity to be heard by
11 an impartial decision maker.
12

13 5.194 The Defendants have not articulated uniform and consistent standards
14 that govern the discipline of inmates, or, to the extent that such standards exist, the
15 Defendants have authorized Jail staff to ignore and violate such standards when
16 imposing discipline upon inmates.
17

18 5.195 The Defendants do not provide inmates with any type of handbook,
19 rule book or written guidance regarding the rules, policies and procedures of the
20 facility when they enter the Jail or at any point thereafter.
21

22 5.196 The Defendants have not posted copies of the facility's rules, policies
23 and procedures anywhere in the Jail that is readily accessible to all inmates.
24

25 5.197 The Jail staff, at the Defendants' direction and with their consent,

1 often discipline inmates by segregating or isolating them or by taking other adverse
2 actions against them without notice or any hearing and for unknown and arbitrary
3 reasons.

4 5.198 The Jail staff, at the Defendants' direction and with their consent,
5
6 seize funds held in the jail financial accounts on behalf of Plaintiffs or members of
7 the class for perceived rules violations or alleged property damage without notice
8 or any hearing before an impartial decision maker and for unknown and arbitrary
9 reasons.

10
11 5.199 The Defendants have promulgated a good time policy that allows the
12 jail staff to take good time from the Plaintiffs and members of the class without
13 notice or any hearing before an impartial decision maker.

14
15 5.200 As a result of Defendants' unlawful actions, the Plaintiffs and
16 members of the class have been placed in segregation, lost funds held in jail
17 accounts, lost good time credits, and/or suffered other serious deprivations.

18
19 5.201 The Defendants regularly punish inmates by placing them in isolation
20 or segregation without cause and without providing them any due process prior to
21 placing them in isolation or segregation.

22 5.202 Jails may not discipline pre-trial inmates without providing them due
23 process of law.

24
25 5.203 Jails may not seize funds held in inmate accounts without providing

1 them due process of law.

2 5.204 Jails may not deny or take away good time from inmates without
3 providing them with due process of law.

4 5.205 Franklin County has enacted an ordinance requiring that the
5 Defendants provide procedural protections before imposing discipline upon people
6 incarcerated at the Jail, Franklin County Resolution Number 96-073,
7

8 5.206 The ordinance allows the Defendants to discipline inmates under
9 certain circumstances, but requires the Defendants to provide specific procedural
10 protections before doing so.
11

12 5.207 The ordinance requires the Defendants to provide any inmate subject
13 to discipline for a violation of Jail rules, notice of the infraction, a hearing before a
14 panel of neutral decision-makers, a written decision and the opportunity to appeal
15 an unfavorable decision to Jail management.
16

17 5.208 The ordinance limits the use of segregation or isolation to no more
18 than 15 days for any one violation, and no more than thirty days for all violations
19 arising out of one incident.
20

21 5.209 This Franklin County ordinance requires the procedural protections
22 afforded to pre-trial inmates by the Due Process Clause of the Fourteenth
23 Amendment to the United States Constitution.
24

25 5.210 The Defendants regularly violate the Constitution and Franklin

1 County's ordinance by imposing isolation or segregation and other forms of
2 discipline against inmates without providing any of the procedural protections
3 specifically required by the ordinance.

4 5.211 The Jail maintains financial accounts for inmates from which inmates
5 can pay for telephone calls, medical appointments, and items ordered from the Jail
6 commissary.
7

8 5.212 The Defendants have deducted funds from these inmate accounts
9 when the Jail charges inmates with the cost of replacement of items the Defendants
10 allege inmates have damaged.
11

12 5.213 The Defendants deduct these funds from inmate accounts without
13 providing the inmates notice of these charges, the reason for the charges, or
14 providing them with a hearing before an impartial decision maker before doing so.
15

16 5.214 The Defendants have deducted funds from the accounts of Plaintiffs
17 Kinsey, Montejano, and McVay, and from the accounts of other members of the
18 Plaintiff class's accounts.
19

20 5.215 The Defendants did not provide adequate notice or an opportunity for
21 a hearing before an impartial decision maker before deducting these funds.
22

23 5.216 Defendants by their own policy grant inmates good time credit for
24 time served in Franklin County Jail as follows:

25 Good Time - Sole discretion of the Jail Administration:

1 Straight Good time will be given; subject to good behavior at the rate of one
2 day for every five, for sentenced prisoners, trustee good time is one for
3 three. The only exception will be when specifically denied by order of the
4 judge. Certain crimes according to state criteria can receive a maximum of
5 10%.

6 Franklin County Jail Policy Number 917.

7 5.217 If the Defendants seize an inmate's good time credits the inmate will
8 remain incarcerated at the Jail for a longer period of time than if he had not had his
9 good time credits taken from him.

10 5.218 Defendants by policy authorize the loss of good time credits as
11 follows:

12 Loss of Good Time

13 Inmates may have the standard Good Time for this facility taken by a
14 Corrections Sergeant or inmate worker officer (trustee officer) upon
15 approval of the Captain or Lieutenant.

16 Good Time removal is reserved for inmates who have displayed a high
17 disregard for facilities rules, violent behavior, escape or attempted escape
18 from custody as examples.

19 An inmate may file an appeal or grievance of the removal of Good Time by
20 the "KITE" system.

21 The inmate appeal or grievance will be reviewed by the Corrections Captain.
22 The Captain will make the final ruling on an inmate appeal or grievance.

23 Franklin County Jail Policy No. 914.

24 5.219 On its face, Franklin County policy does not provide for appropriate
25 notice or an opportunity for a hearing before the loss of good time.

1 5.220 The Franklin County policy therefore violates constitutional due
2 process requirements on its face.

3 5.221 Moreover, in practice the Defendants deprive inmates of earned good
4 time credits or condone the loss of such credits without providing notice or an
5 opportunity for a hearing.
6

7 5.222 The Plaintiffs and the members of the class have had earned good
8 time credits taken from them or are likely to lose good time credits in the future
9 without notice or an opportunity for a hearing.
10

11 5.223 The Defendants placed Plaintiff Braxton in isolation as punishment
12 for an alleged violation of Jail rules.

13 5.224 The Defendants did not provide Mr. Braxton anything in writing
14 regarding Jail rules before placing him in segregation.
15

16 5.225 The Defendants did not provide Mr. Braxton with notice of his
17 infraction or with a hearing prior to placing him in isolation.
18

19 5.226 The Defendants did not inform Mr. Braxton how long he could expect
20 to remain in segregation.

21 5.227 Mr. Braxton remained in isolation for days before the Defendants
22 released him without explanation.
23

24 5.228 As of the filing of this lawsuit, the Defendants had held Plaintiff
25 McVay in segregation in squalor in G-Tank since February 28, 2014.

1 5.229 In response to Mr. McVay's requests to be moved to a different cell or
2 pod or be released from segregation, Defendant Long informed Mr. McVay that he
3 would remain in squalor in G-Tank as long as he remained at the Jail.

4 5.230 After the filing of this lawsuit, the defendants moved Mr. McVay into
5 a different cell in a different pod. However, Mr. McVay remains in segregation.
6

7 5.231 The Defendants did not provide Mr. McVay with written notice of the
8 basis for his isolation prior to placing him in segregation.

9 5.232 The Defendants did not provide Mr. McVay with a hearing prior to
10 placing him in segregation or at any subsequent time.
11

12 5.233 The Defendants have informed Mr. McVay that he can expect to
13 remain in isolation and segregation during his entire term at the Jail.
14

15 5.234 As of the filing of this lawsuit, the Defendants had held Plaintiff
16 Montejano in segregation in squalor in G-Tank for many months.

17 5.235 In response to Mr. Montejano's requests to be moved to a different
18 cell or pod or be released from segregation, Defendant Long informed Mr.
19 Montejano that he would remain in squalor in G-Tank as long as he remained at
20 the Jail.
21

22 5.236 After the filing of this lawsuit, the Defendants moved Mr. Montejano
23 into a different cell in a different pod. However, Mr. Montejano remains in
24 segregation.
25

1 5.237 The Defendants did not provide Mr. Montejano with written notice of
2 the basis for his isolation prior to placing him in segregation.

3 5.238 The Defendants did not provide Mr. Montejano with a hearing prior to
4 placing him in segregation or at any subsequent time.

5 5.239 The Defendants have informed Mr. Montejano that he can expect to
6 remain in isolation and segregation during his entire term at the Jail.

7 5.240 The Defendants placed Plaintiffs Murillo and Kinsey into segregation
8 in G-Tank without notice or an opportunity to be heard and without providing them
9 clear standards or rules by which they could judge their conduct.
10

11 5.241 The Defendants have placed other inmates in segregation without
12 adequate cause, without providing any procedural protections, and without
13 providing inmates notice of applicable Jail rules and the consequences of violating
14 those rules.
15

16 5.242 Jail staff have taken away the out of cell time from all of the
17 Plaintiffs, including Plaintiffs Farris and Eddington, at one point or another during
18 their incarceration, without notice and without an opportunity for a hearing to
19 contest the discipline.
20

21 5.243 The denial of out of cell time constitutes discipline under Franklin
22 County's written policies.
23

24 5.244 The Defendants have denied the Plaintiffs and other members of the
25

1 class out of cell time without adequate cause, without providing any procedural
2 protections, and without providing inmates notice of applicable Jail rules and the
3 consequences of violating those rules.

4 5.245 Jail staff has denied or taken away other necessities of life or
5 important privileges from the Plaintiffs and other members of the class without any
6 notice, hearing or other process as well.

7 5.246 The Defendants will continue to discipline people by segregating
8 them, taking their good time, seizing their funds and by depriving them of other
9 essential items while incarcerated in the Jail without providing any procedural
10 protections in the future absent court action.

11 **F. JAIL-WIDE LOCKDOWN**

12 5.247 The Defendants have ordered the permanent lockdown of most people
13 incarcerated at the Jail.

14 5.248 Most inmates incarcerated in the Jail are locked in their cells for at
15 least 23 hours a day.

16 5.249 By policy, defendants allow the people in segregation cells out of their
17 cells for only one hour, three days a week.

18 5.250 A few people with jobs within the Jail are allowed out of their cells
19 more often.

20 5.251 With the exception of the segregation cells, in which people are

1 confined alone, people in other pods generally share cells with one to three other
2 inmates.

3 5.252 However, even in non-segregation cells it is not uncommon for the
4 Defendants to house individuals alone.
5

6 5.253 If housed with others, the people in each cell conduct all of their
7 intimate activities in close proximity to and in direct view of all of the other people
8 in the cell during all of their 23 hours locked down.
9

10 5.254 Plaintiffs and members of the class have very few activities that they
11 can pursue while locked in their cells 23 or more hours a day.

12 5.255 The Defendants do not provide any type of programming to people
13 incarcerated in the Jail.
14

15 5.256 The Defendants do not provide any religious services to people
16 incarcerated in the Jail.

17 5.257 The Defendants do not provide any education services, therapeutic
18 groups or athletic recreation to people incarcerated in the Jail.
19

20 5.258 There is no law library or other type of library at the Jail.

21 5.259 Cells at the Jail do not have radios or televisions.

22 5.260 The dayrooms into which people are released on their hour out do not
23 have radios and televisions.
24

25 5.261 The Defendants release the inmates from one cell at a time into the

1 day room in each cell block and then only for an hour a day.

2 5.262 During their one hour out a day, inmates are expected to shower,
3 exercise and use the telephone.

4 5.263 All of these activities occur within the pod dayroom to which a few
5 individual cells are attached.

6 5.264 With few exceptions, everyone incarcerated at the Jail is on lockdown
7 at least twenty three hours a day, without regard to their individual criminal
8 charges or their past conduct while incarcerated.

9 5.265 The Defendants have no individualized, objective classification
10 system at the Jail by which they identify the appropriate level of security and
11 housing assignment for each individual person depending on the individual
12 characteristics of each person.

13 5.266 Decisions regarding housing assignments and security levels at the
14 Jail are arbitrary and ad hoc.

15 5.267 Inmates are placed in isolation without cause and without regard to
16 actual security needs of the Jail.

17 5.268 An appropriate, objective, individualized classification system would
18 eliminate any need for a jail-wide, twenty three hour lockdown.

19 5.269 By locking most people in their cells for at least twenty three hours
20 per day, the Defendants have exacerbated many people's existing mental health

1 conditions and caused all people incarcerated in the Jail physical, emotional and
2 psychological injuries.

3 5.270 The Defendants will continue to subject all members of the class to at
4 least twenty three hour lockdown absent court intervention.
5

6 **G. DENIAL OF OUTDOOR EXERCISE**

7 5.271 When inmates have their one hour out of cell time they are generally
8 only allowed into the day room of the pod to which their cell is attached.
9

10 5.272 The day rooms are not open to the outdoors.

11 5.273 The Jail has two small, concrete recreation pens.

12 5.274 The small pens are surrounded by tall concrete walls that have no
13 windows in them.

14 5.275 The roofs of the pens are open to the air.

15 5.276 The pens are empty. There are no benches, tables, or exercise
16 equipment in either of the pens.
17

18 5.277 The Jail does not allow people to take any kind of exercise or athletic
19 equipment into the pens with them and does not provide any such equipment to
20 them.
21

22 5.278 Even though these small pens exist, Defendants rarely allow any
23 inmates access to these pens.
24

25 5.279 Plaintiff Eddington had not been outside for a number of weeks and

1 only twice since he was booked into the Jail on May 26, 2014 until the initiation of
2 this lawsuit.

3 5.280 Similarly, Plaintiff Farris has only been outside on a couple of
4 occasions since March 23, 2014.

5
6 5.281 Until the filing of this lawsuit, Plaintiffs McVay and Montejano had
7 only been outside one time during the entire time they have been incarcerated at
8 the Franklin County Jail.

9
10 5.282 All inmates should have access to regular outside exercise and
11 recreation.

12 5.283 Many inmates have gone months at a time without ever breathing
13 fresh air or feeling the warmth of the sun.

14
15 5.284 Defendants denial of adequate outdoor exercise, sunlight and open air
16 has caused the Plaintiffs and members of the class physical and psychological
17 harm.

18
19 2.285 To the extent that the Defendants have begun providing outdoor
20 exercise on a regular basis to inmates after the filing of this lawsuit, there is
21 nothing prohibiting them from again barring outdoor exercise in the future.

22 **H. DENIAL OF CONTACT WITH FAMILY**

23
24 5.286 The Defendants through a series of steps have significantly and
25 unnecessarily limited inmates' contact with their children, wives, husbands,

1 mothers, fathers, and other loved ones.

2 5.287 The Defendants have done this by prohibiting all face to face visits,
3 limiting mail to only two post cards per week, and restricting access to the
4 telephone.

5
6 5.288 The Defendants' policies have seriously damaged inmates'
7 relationships with their family members.

8 5.289 The Defendants have completely denied inmates face to face visits for
9 many months.

10
11 5.290 Because of Defendants' policy, no person incarcerated at the Jail has
12 had a visit from family since February 2014.

13 5.291 The denial of face to face visits is particularly difficult for young
14 children and parents of young children.

15
16 5.292 Face to face contact is essential to maintain strong connections
17 between children and their parents.

18 5.293 Plaintiff Murillo's child was two months old when Mr. Murillo was
19 incarcerated at the Jail.

20
21 5.294 Mr. Murillo's grandmother is currently visiting the Tri-Cities from out
22 of state.

23 5.295 Mr. Murillo has not seen his grandmother in a number of years.

24 5.296 Because of the Defendants' policy, Mr. Murillo has had no contact
25

1 with his child for several months and will not be able to see his grandmother
2 during her visit to the area.

3 5.297 Similarly, Plaintiff Farris, who suffers from severe depression, cannot
4 receive visits from her sister or other family members.
5

6 5.298 The Defendants have unreasonably interfered with Plaintiffs'
7 relationships by prohibiting all face to face visits.

8 5.299 In addition to denying all face to face contact, the Defendants prohibit
9 all non-legal mail, except for postcards.
10

11 5.300 The postcard-only policy prohibits inmates from receiving any written
12 communication from family or friends, except for postcards.

13 5.301 The postcard-only policy severely hampers inmates and their families
14 from sharing important, intimate information.
15

16 5.302 The Defendants limit indigent inmates to two post cards per week.

17 5.303 The Defendants will not deliver letters, pictures, children's report
18 cards, drawings, medical records or other important documents sent to inmates
19 from their families if they are delivered in envelopes.
20

21 5.304 Any such items are either returned to the sender or held by the Jail.

22 5.305 The Defendants do not notify inmates about withheld mail and do not
23 deliver withheld mail to inmates.
24

25 5.306 Defendants also limit contact between people incarcerated in the jail

1 and their families by charging exorbitant rates for telephone calls.

2 5.307 Defendants charge \$5.00 for every ten minutes of phone time.

3 5.308 Because of the huge charges, many people incarcerated in the Jail
4 cannot afford to call family members and family members cannot afford to accept
5 collect calls from inmates.
6

7 5.309 On their own, each of these policies severely and unreasonably limits
8 the ability of people to communicate with their families.

9 5.310 Together, the Defendants' policies make it extremely difficult for
10 inmates to maintain contact with their children, parents, spouses, siblings, and
11 other loved ones.
12

13 5.311 Defendants' unreasonable interference with familial relationships has
14 injured every Plaintiff and every member of the Plaintiff class.
15

16 5.312 No legitimate penological interests justify any of the Defendants'
17 illegal actions described above.
18

19 **I. DELIBERATE INDIFFERENCE**

20 5.313 The Defendants' actions, customs, policies and practices set out in
21 paragraphs 5.1 – 5.312 above constitute deliberate indifference to the safety,
22 wellbeing, health, mental health, and constitutional rights of the Plaintiffs and the
23 Plaintiff class.
24

25 5.314 The actions, customs, conditions, policies and practices set out in

1 paragraphs 5.1-5.312 above singly and collectively cause unreasonable,
2 unnecessary and wanton infliction of pain and physical, emotional and
3 psychological injury to each Plaintiff and to every other member of the Plaintiff
4 class.

5
6 **VI. CLAIMS FOR RELIEF**

7 6.1 Based upon the facts alleged above, the Plaintiffs make the following
8 claims for relief on behalf of themselves and all other similarly situated people.

9
10 **FIRST CLAIM FOR RELIEF – DENIAL OF PROCEDURAL AND
11 SUBSTANTIVE DUE PROCESS**

12 6.2 The Defendants Franklin County, Sheriff Richard Lathim and Captain
13 Rick Long have acted under color of state law and violated rights secured to the
14 Plaintiffs and members of the Plaintiff class by the Due Process Clause of the
15 Fourteenth Amendment to the United States Constitution, which are actionable
16 pursuant to 42 U.S.C. § 1983 and by Article I section 3 of Washington’s
17 Constitution, as follows:

- 18
19 (a) The Defendants have subjected Plaintiffs and members of the
20 Plaintiff class to discipline, by segregating or isolating them,
21 seizing their funds, denying them good time credit, and by
22 depriving them of other necessities, or by requiring, authorizing
23 or condoning such actions by Jail staff, without uniform and
24
25

1 consistent standards and without providing the Plaintiffs and
2 the Plaintiff class with adequate notice or hearing before an
3 impartial decision maker.

4 (b) The Defendants have punished Plaintiffs and members of the
5 Plaintiff class or threatened to punish them by requiring,
6 authorizing or condoning the following actions:
7

8 (i) chaining them to fixed objects for long periods of time;
9

10 (ii) restraining them in a restraint chair for long periods of
11 time without adequate cause and without adequate
12 monitoring;

13 (iii) otherwise restraining them for long periods of time
14 without cause and without adequate monitoring;
15

16 (iv) pepper spraying them without adequate cause and by
17 then failing to provide them with adequate medical care
18 or decontaminating them;

19 (v) isolating them alone in a cell without adequate cause and
20 without appropriate supervision or monitoring;
21

22 (vi) subjecting members in segregation to inhumane,
23 degrading and deplorable living conditions;
24
25

- 1 (vii) locking all members of the class in their cells for a
2 minimum of twenty three hours a day without regard to
3 the individual member's medical or mental health
4 condition and without any process by which to determine
5 the actual security needs of the institution or the
6 appropriate classification of individual members;
7
8 (viii) barring them from access to fresh air and outdoor
9 exercise;
10
11 (ix) confining them in a Jail in which all of the conditions
12 described above singly and collectively cause
13 unreasonable, unnecessary and wanton physical,
14 emotional and psychological injury to each Plaintiff and
15 to every other member of the Plaintiff class;
16
17 (x) failing to properly train Jail staff in order to ensure that
18 staff act in compliance with the State and Federal
19 Constitutions;
20
21 (xi) failing to properly supervise Jail staff in order to ensure
22 that staff act in compliance with the State and Federal
23 Constitutions; and
24
25

1 (xii) failing to promulgate uniform and consistent policies,
2 procedures and standards so as to ensure that the Jail staff
3 operate the Jail in compliance with the State and Federal
4 Constitutions.
5

6 **SECOND CLAIM FOR RELIEF – IMPOSITION OF CRUEL AND**
7 **UNUSUAL PUNISHMENT**

8 6.3 The Defendants Franklin County, Sheriff Richard Lathim and Captain
9 Rick Long have acted under color of state law and violated rights secured to the
10 Plaintiffs and members of the Plaintiff class by the Eighth Amendment to the
11 United States Constitution, which prohibits cruel and unusual punishment, which
12 are actionable pursuant to 42 U.S.C. § 1983, and by Article I section 14 of
13 Washington’s Constitution which prohibits cruel punishment, as follows:
14

15 (a) The Defendants have been deliberately indifferent to the
16 Plaintiffs’ health and safety by:

17 (i) chaining them to fixed objects for long periods of time;

18 (ii) restraining them in a restraint chair for long periods of
19 time without adequate cause and without adequate
20 monitoring;
21

22 (iii) otherwise restraining them for long periods of time
23 without adequate cause and without adequate monitoring;
24
25

- 1 (iv) pepper spraying them without adequate cause and by
2 then failing to provide them with adequate medical care
3 or decontaminating them;
4
5 (v) isolating them alone in a cell without cause and without
6 appropriate supervision or monitoring;
7
8 (vi) subjecting members in segregation to inhumane,
9 degrading and deplorable living conditions;
10
11 (vii) locking all members of the class in their cells for a
12 minimum of twenty three hours a day without regard to
13 the individual member's medical or mental health
14 condition and without any process by which to determine
15 the actual security needs of the institution or the
16 appropriate classification of individual members;
17
18 (viii) barring them from access to fresh air and outdoor
19 exercise;
20
21 (ix) confining them in a Jail in which all of the conditions
22 described above singly and collectively cause
23 unreasonable, unnecessary and wanton physical,
24 emotional and psychological injury to each Plaintiff and
25 to every other member of the Plaintiff class;

1 (x) failing to properly train Jail staff in order to ensure that
2 staff act in compliance with the State and Federal
3 Constitutions;

4 (xi) failing to properly supervise Jail staff in order to ensure
5 that staff act in compliance with the State and Federal
6 Constitutions; and

7 (xii) failing to promulgate uniform and consistent policies,
8 procedures and standards so as to ensure that the Jail staff
9 operate the Jail in compliance with the State and Federal
10 Constitutions.
11
12

13 **THIRD CLAIM FOR RELIEF - VIOLATION OF DUTY TO KEEP**
14 **PLAINTIFFS AND CLASS IN HEALTH AND SAFETY**

15 6.4 The Defendants Franklin County, Sheriff Richard Lathim and Captain Rick
16 Long have acted under color of state law and violated the state law duty to keep
17 Plaintiffs in health and safety. The Defendants have a special relationship with
18 inmates in Franklin County, which arises when a person is arrested and
19 imprisoned. As a result of this special relationship, the Defendants have a duty to
20 keep inmates incarcerated at the Jail in health and safety. The Defendants have
21 violated this duty as follows.
22
23
24
25

- 1 (a) The Defendants have breached their duty to keep the Plaintiffs
2 and the members of the Plaintiff class in health and safety by
3 failing to ensure that Jail staff did not:
4
5 (i) chain them to fixed objects for long periods of time;
6 (ii) restrain them in a restraint chair for long periods of time
7 without adequate cause and without adequate monitoring;
8 (iii) otherwise restrain them for long periods of time without
9 adequate cause and without adequate monitoring;
10 (iv) pepper spray them without adequate cause and then fail
11 to provide them with adequate medical care or
12 decontaminate them;
13 (v) isolate them alone in a cell without adequate cause and
14 without supervision or monitoring;
15 (vi) subject class members in segregation to inhumane,
16 degrading and deplorable living conditions;
17 (vii) lock all members of the class in their cells for a minimum
18 of twenty three hours a day without regard to the
19 individual member's medical or mental health condition
20 and without any process by which to determine the actual
21
22
23
24
25

1 security needs of the institution or the appropriate
2 classification of individual members.

3 (viii) hold them in a Jail in which all of the conditions
4 described above singly and collectively cause
5 unreasonable, unnecessary and wanton physical,
6 emotional and psychological injury to each Plaintiff and
7 to every other member of the Plaintiff class;
8

9
10 (b) The Defendants also violated their duty to the Plaintiffs and the
11 members of the Plaintiff class by:

12 (i) failing to properly train Jail staff in order to avoid staff
13 acting in the illegal and unconstitutional ways described
14 above;
15

16 (ii) failing to properly supervise Jail staff in order to ensure
17 that staff act in legal and constitutional ways while
18 employed at the Jail; and
19

20 (iii) failing to promulgate uniform and consistent policies,
21 procedures and standards to ensure that the Jail staff
22 operates the Jail in a lawful manner.
23
24
25

**FOURTH CLAIM FOR RELIEF – VIOLATION OF
RIGHTS OF FREE SPEECH AND FAMILIAL ASSOCIATION**

1
2
3 6.5 The Defendants Franklin County, Sheriff Richard Lathim and Captain
4 Rick Long have acted under color of state law and violated rights secured to the
5 Plaintiffs and members of the Plaintiff class by the First and Fourteenth
6 Amendments to the United States Constitution, which are actionable pursuant to 42
7 U.S.C. § 1983, and by Article I section 3, Article I section 4 and Article I section 5
8 of Washington’s Constitution which prohibit deprivations without due process of
9 law and protect the right to assembly, familial associations and free speech, as
10 follows:
11

- 12
- 13 (a) barring the Plaintiffs or members of the Plaintiff class from face
14 to face visits with their family members and friends;
 - 15 (b) barring the Plaintiffs or members of the Plaintiff class from
16 sending or receiving mail to or from family members and
17 friends, with the exception of post cards;
 - 18 (c) barring the Plaintiffs and members of the Plaintiff class from
19 access to affordable telephone services; and
 - 20 (d) imposing these policies upon the Plaintiffs and the members of
21 the Plaintiff class which, individually and collectively, severely,
22 unreasonably and unnecessarily limit contact between people
23
24
25

1 incarcerated at the Jail and their family members and friends.

2 **VII. PRAYER FOR RELIEF**

3 The Plaintiffs respectfully request that this Court:

4 7.1 Certify this action as a class action.

5
6 7.2 Adjudge and declare that the actions, customs, conditions, policies,
7 and practices described in this Complaint violate the rights of the Plaintiffs and the
8 class they seek to represent under the State and Federal Constitutions and other
9 applicable laws.

10
11 7.3 Preliminarily and permanently enjoin the Defendants, their agents,
12 employees, and all persons acting in concert with them from subjecting the
13 Plaintiffs and the class they seek to represent to the actions, customs, conditions,
14 policies, and practices described in this Complaint.

15
16 7.4 Appoint a Special Master pursuant to Fed. R. Civ. Pro. 53 to oversee
17 the Defendants' compliance with any orders the Court will issue in the future.
18 Order the Defendants to provide all appropriate and necessary funds to compensate
19 the Special Master for his or her duties.

20
21 7.5 Retain jurisdiction of this case until such time as the Defendants have
22 fully complied with all orders of the Court or Special Master, and there is
23 reasonable assurance that the Defendants will continue to comply in the future with
24 these orders.
25

1 7.6 Award Plaintiffs’ reasonable attorneys’ fees and costs pursuant to 42
2 U.S.C. § 1988 and any other applicable statute or court rule.

3 7.7 Award Plaintiffs and members of the Plaintiff class such other and
4 further relief as justice may require.
5

6 Respectfully submitted this 29th day of August, 2014.

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Certificate of Service

I hereby certify that on August 29, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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