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8 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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

13 Plaintiffs,

14 v.

15
16 FRANKLIN COUNTY, SHERIFF
RICHARD LATHIM, and CAPTAIN
17 RICK LONG;

18 Defendants.
19

CLASS ACTION

No.

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

1 **I. PRELIMINARY STATEMENT**

2 1.1 Conditions at the Franklin County Jail in Pasco, Washington (“Jail”)
3 violate the constitutional rights of the people incarcerated there. Jail administrators
4 (“Defendants”) have ordered, authorized or condoned each of the following illegal
5 actions:

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

18 1.2 The Defendants lock all inmates in their cells for at least twenty three
19 hours per day, with no programming, religious services, and only very rare
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1 opportunity to breathe fresh air or see the sun. Rather than provide inmates with
2 disciplinary procedures, due process or adequate exercise, the Defendants
3 indiscriminately utilize restraint chairs, shackles, long-term isolation, and pepper
4 spray in an attempt to maintain order and to punish inmates.

5 1.3 The Defendants' actions have caused inmates physical, emotional and
6 psychological injuries and deprived them of contact with their families. One
7 inmate recently died at the Jail and others have seriously injured themselves as a
8 result of the Defendants' horrendous actions.

9 1.4 The Defendants' actions violate the First, Eighth and Fourteenth
10 Amendment protections afforded the people incarcerated at the Jail. The
11 Defendants will continue to violate the rights of all inmates absent injunctive and
12 declaratory relief as requested below.

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

16 **II. PARTIES**

17 **A. PLAINTIFFS**

18 2.1 Plaintiff Richard Vinson is an inmate who has been incarcerated at the
19 Jail since July 18, 2014.

1 2.2 Plaintiff Teresa Farris is a pre-trial inmate who has been incarcerated
2 at the Jail since March 23, 2014.

3 2.3 Plaintiff Wardell Braxton is a pre-trial inmate who has been
4 incarcerated at the Jail since January 3, 2014.

5 2.4 Plaintiff Thomas Eddington is a pre-trial inmate who has been
6 incarcerated at the Jail since May 26, 2014.

7 2.5 Plaintiff Giovanni Kinsey is a pre-trial inmate who has been
8 incarcerated at the Jail since June 2, 2014.

9 2.6 Plaintiff Paul McVay is a pre-trial inmate who has been incarcerated
10 at the Jail since December 12, 2013.

11 2.7 Plaintiff Guadalupe Montejano is a pre-trial inmate who has been
12 incarcerated at the Jail since January 3, 2014.

13 2.8 Plaintiff Frank Murillo is a pre-trial inmate who has been incarcerated
14 at the Jail since April 30, 2014.

15 **B. DEFENDANTS**

16 2.9 Defendant Franklin County is a political subdivision of the State of
17 Washington. It operates the Franklin County Corrections Center (“Jail”) in which it
18 incarcerates people who have been charged with crimes and are awaiting trial (pre-
19 trial inmates) and people who have been convicted of crimes and are serving

1 criminal sentences (post-conviction inmates).

2 2.10 The Jail is located at 1016 N. 4th, Pasco, Franklin County, Washington
3 99301.

4 2.11 As the Jail operator, Defendant Franklin County is responsible for the
5 health, safety, and treatment of inmates detained in the facility and for the Jail's
6 staffing and operations.

7 2.12 Franklin County is responsible and liable for the actions of all Jail
8 employees.

9 2.13 As detailed below Defendant Franklin County has failed to properly
10 train or supervise Franklin County employees and failed to properly promulgate
11 policies and standards to ensure that the Jail is operated in a constitutional manner.

12 2.14 Franklin County has delegated authority for the operation and
13 management of the Jail to the Franklin County Sheriff's Office.

14 2.15 Defendant Richard Lathim is the Sheriff of Franklin County.

15 2.16 He administers the Franklin County Sheriff's office which includes
16 several different divisions, including the Corrections Division.

17 2.17 The Corrections Division is responsible for operating the Jail.

18 2.18 Defendant Lathim is the Franklin County employee ultimately
19 responsible for the health, safety, and treatment of inmates detained in the Jail and
20

1 for ensuring the Jail's safe and lawful operations.

2 2.19 He has delegated day to day operations of the Jail to his subordinate
3 Defendant Rick Long.

4 2.20 Defendant Lathim is regularly on-site at the Jail.

5 2.21 The material facts set out below are all known to Defendant Lathim
6 and all actions described were taken or continue to be taken by Jail staff at his
7 explicit direction and/or with his knowledge and consent.

8 2.22 In addition as detailed below Defendant Lathim has failed to properly
9 train or supervise Franklin County Sheriff's Department employees and failed to
10 properly promulgate policies and standards to ensure that the Jail is operated in a
11 constitutional manner.

12 2.23 He is sued in his official capacity.

13 2.24 The Correction Division employs a number of correctional officers
14 and other staff in order to operate the Jail.

15 2.25 Defendant Captain Rick Long is the Corrections Division and the
16 Jail's chief administrator.

17 2.26 As chief administrator of the Jail, Defendant Long immediately
18 supervises all Jail employees and creates and administers Jail policies, procedures
19 and standards.

1 2.27 He is responsible for the health, safety, and treatment of inmates
2 detained in the facility and for the Jail's staffing and operation.

3 2.28 As the chief Jail administrator, Defendant Long is responsible and
4 liable for the actions of all Jail employees.

5 2.29 Defendant Long is physically present at the Jail on a daily basis and
6 oversees its day to day operations.

7 2.30 The material facts set out below are all known to Defendant Long and
8 all actions described were taken or continue to be taken by Jail staff at his explicit
9 direction and/or with his knowledge and consent.

10 2.31 In addition as detailed below Defendant Long has failed to properly
11 train or supervise Corrections Division employees and failed to properly
12 promulgate policies and standards to ensure that the Jail is operated in a
13 constitutional manner.

14 2.32 He is sued in his official capacity.

15 **III. JURISDICTION AND VENUE**

16 3.1 This Court has jurisdiction over the federal claims presented in this
17 action pursuant 28 U.S.C. § 1331 (federal question) and 42 U.S.C. § 1983 (civil
18 rights). Declaratory relief is authorized by 28 U.S.C. §§ 2201 - 2202.

19 3.2 Venue is proper in this judicial district under 28 U.S.C. § 1391(b)

1 because all of the events that support the allegations occurred in this judicial
2 district and because the Plaintiffs are incarcerated in this judicial district.

3 **IV. CLASS ACTION ALLEGATIONS**

4 4.1 Plaintiffs named above bring this action on their own behalves and
5 pursuant to Rule 23(a) and 23(b) (2) of the Federal Rules of Civil Procedure, on
6 behalf of a class of similarly situated persons.

7 4.2 The proposed class is defined as:

8 All people who are currently incarcerated in the Franklin
9 County Corrections Center and all people who will be
incarcerated there in the future.

10 4.3 The Plaintiffs bring all claims asserted below on behalf of themselves
11 and all members of the class.

12 4.4 The Plaintiff class is so numerous that joinder is impracticable. Upon
13 information and belief, the Jail houses more than 180 men and women per night.

14 4.5 There are questions of law common to the plaintiff class including:

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

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

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

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

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

11 (f) Whether the Defendants require, authorize and/or condone the
12 unreasonable, unconstitutional denial of contact between people
13 incarcerated in the Jail and their families and friends; and

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

17 4.6 The Defendants have acted and refused to act on grounds generally
18 applicable to the class, thereby making appropriate class-wide injunctive and
19 declaratory relief.

1 **V. FACTS**

2 5.1 The Jail was originally built to house 105 inmates, but has held up to
3 239 people per night. The average daily population is 196.

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

6 5.3 People are booked into the Jail and other people are released from the
7 Jail every day.

8 5.4 Some people awaiting trial remain in the Jail for many months.

9 5.5 Other people live in the Jail while serving criminal sentences of less
10 than a year or serving out violations of community custody or other conditions of
11 their criminal sentences.

12 5.6 The Jail is currently undergoing an expansion and remodel.

13 5.7 The remodeling of the Jail will not resolve the unconstitutional
14 conditions described below.

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

16 5.8 Rather than meet their constitutional obligations to run a humane jail,
17 the Defendants authorize and supervise the regular and inappropriate use of force
18 and restraints by Jail staff against inmates.

19 5.9 A jail's use of force against inmates is constitutional only in limited
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1 circumstances involving self-defense, protection of others, protection of property,
2 and to prevent escapes.

3 5.10 Jail staff may use physical force only as a last resort.

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

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

9 5.13 A jail may not use physical force or restraints to punish inmates.

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 proper supervision or
16 training;
- 17 (c) Otherwise restrain inmates without proper supervision or
18 training;
- 19 (d) pepper sprays inmates without proper supervision or training;
- 20

1 and

2 (e) lock inmates into segregation or isolation without proper
3 supervision or training and in deplorable and inhumane
4 conditions

5 5.16 Jail staff under the Defendants' direct supervision use force and
6 restraints against inmates, many of whom suffer from medical or mental health
7 conditions that are exacerbated by the inappropriate conduct.

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

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

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

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.

1 5.21 Because the Defendants have no written policies, procedures or
2 standards, and have not trained or properly supervised Jail staff, the staff will
3 continue to use unreasonable, unconstitutional levels of force and restraints against
4 people incarcerated at the Jail into the future, absent court action enjoining
5 Defendants' conduct.

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

10 **B. FACTS ABOUT CHAINS, SHACKLES AND THE RESTRAINT**
11 **CHAIR**

12 5.23 A jail may not use restraints that cause physical injury or pain to
13 inmates or as a form of punishment.

14 5.24 As detailed below, the Defendants have done so.

15 5.25 The Defendants use the restraint chair and shackles to punish inmates.

16 5.26 The restraint chair is a device into which an inmate is strapped at the
17 hands, legs and chest.

18 5.27 Once strapped in, the inmate is completely immobilized and unable to
19 feed himself, obtain water to drink, or use a bathroom without the intervention of
20 Jail staff.

1 5.28 Unless Jail staff provide the inmate with water and food and allow the
2 inmate out of the restraint chair to use the bathroom, the inmate will have no
3 access to food or water, and will be forced to urinate or defecate upon himself.

4 5.29 At times, Jail staff also place a hood over an inmate's head while the
5 inmate is immobilized in the restraint chair.

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

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

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 restraint chairs 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 should be restrained in the chair.

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

1 5.36 Inmates must be removed from the chair immediately upon the
2 cessation of the behavior that caused them to be placed in the chair.

3 5.37 The restraint chair should only be used as a last resort, and should not
4 be used when any other less restrictive means to protect the inmate or others is
5 available.

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

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

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

15 5.41 Jail staff must constantly monitor and observe the person restrained in
16 the chair to ensure that the person is not suffering pain or injury because of the
17 restraints.

18 5.42 Use of the restraint chair without proper medical supervision and for a
19 prolonged period of time can cause serious medical complications and injure the
20

1 person restrained in the chair.

2 5.43 Unfortunately, the Defendants utilize the restraint chair in inhumane
3 ways.

4 5.44 Jail staff do not place the restraint chair in a private area with direct
5 supervision.

6 5.45 Instead, the Defendants have authorized Jail staff to use the restraint
7 chair in the Booking area of the Jail, one of the most well-traveled areas of the Jail.

8 5.46 Inmates, correctional officers, other staff, construction workers, police
9 officers and other people are present in the Booking area of the Jail throughout the
10 day and night.

11 5.47 Any inmate who is being transported to court or leaving the Jail
12 travels through the Booking Area.

13 5.48 Inmates meet with their attorneys in the Booking Area.

14 5.49 Construction workers work in and around the Booking Area
15 throughout the day.

16 5.50 People who have been arrested and brought to the Jail are processed in
17 the Booking Area within feet of the person being restrained.

18 5.51 Every person who enters the Booking Area sees the person restrained
19 in the restraint chair.

1 5.52 The Defendants' practice is to strap the inmate down in the restraint
2 chair and turn the restraint chair to a wall so that the inmate stares at only the wall.

3 5.53 Jail staff restrain inmates in the restraint chair for hours or days on
4 end, often in nothing but their underwear or naked.

5 5.54 It is not uncommon for people in the restraint chair to urinate or
6 defecate upon themselves.

7 5.55 It is not uncommon for people in the restraint chair to beg to be
8 released from the chair.

9 5.56 During this entire period, the person restrained is seen and heard by
10 anyone within the Booking Area.

11 5.57 People held in the restraint chair in the Booking Area are subject to
12 on-going and public humiliation in the most heavily trafficked area of the Jail.

13 5.58 Qualified medical professionals do not monitor the person restrained
14 in the chair or perform evaluations of the person prior to being placed in the chair.

15 5.59 Qualified medical professionals do not authorize the initial use of the
16 restraint chair and do not authorize on-going use of the restraint chair.

17 5.60 Jail staff do not provide regular bathroom breaks and do not
18 periodically allow inmates out of the restraint chair to stretch and move around.

19 5.61 The Defendants have directed Jail staff to utilize the restraint chair in
20

1 this manner or approved of the use of the chair in this manner.

2 5.62 The Defendants have not promulgated any written standards by which
3 Jail staff can appropriately measure the use of the restraint chair or determine the
4 conditions under which is warranted.

5 5.63 The Defendants have not promulgated written policies or procedures
6 regarding the restraint chair that ensure that inmates are properly cared for while
7 restrained and only restrained for an appropriate period of time.

8 5.64 The Defendants have not trained Jail staff on the appropriate use of
9 the restraint chair.

10 5.65 The Defendants have restrained Plaintiffs McVay, Montejano, Kinsey,
11 and Vinson in the restraint chair on a number of occasions during the Spring and
12 Summer of 2014 for many hours without cause and without properly monitoring
13 the men.

14 5.66 Jail staff placed Plaintiff Richard Vinson in the restraint chair after he
15 engaged in self-harm and has kept him there for a number of days.

16 5.67 Mr. Vinson was placed in the restraint chair on or before July 31,
17 2014.

18 5.68 As of the filing of this lawsuit on August 2, 2014, Mr. Vinson
19 remained in the restraint chair.

1 5.69 Michael Campbell was booked into the Franklin County Jail.

2 5.70 A few days later, on July 12, 2014, Jail staff found Mr. Campbell dead
3 in his cell.

4 5.71 Defendants report that he died from a brain injury caused by an
5 alcohol-induced seizure and fall.

6 5.72 Mr. Campbell had been held in the restraint chair for a period of time
7 between his booking and his death.

8 5.73 On two occasions, the Defendants held Mr. McVay in the restraint
9 chair for 20 hours or more at a time.

10 5.74 On at least one occasion, Mr. McVay was forced to urinate on himself
11 because the Defendants did not provide him with access to a bathroom.

12 5.75 Mr. Montejano was restrained in the chair on a number of occasions,
13 once for more than 12 hours.

14 5.76 Jail staff placed Plaintiff Giovanni Kinsey in the restraint chair for
15 hours on at least two occasions without justification and without proper
16 monitoring.

17 5.77 Mr. Kinsey was forced to urinate upon himself because Jail staff
18 refused to allow him regular bathroom breaks.

19 5.78 Plaintiffs McVay, Montejano and Kinsey were restrained in the
20

1 restraint chair with metal handcuffs and ankle shackles.

2 5.79 The metal handcuffs and ankle shackles chafed the men's wrists and
3 ankles causing blistering and pain.

4 5.80 No medical personnel evaluated the men prior to or during any of
5 their time in the restraint chair to determine whether the use of the restraint chair
6 was medically appropriate.

7 5.81 The men were restrained in the restraint chair far beyond any
8 reasonable time and far beyond any time necessary to ensure that the men were not
9 a danger to themselves or others.

10 5.82 The Defendants regularly strap other inmates into the restraint chair
11 for long periods of time without cause and without proper supervision or medical
12 monitoring.

13 5.83 Jail staff regularly use the restraint chair against inmates who pose no
14 risk to themselves or others.

15 5.84 Jail staff regularly use the restraint chair against inmates when other
16 less restrictive alternatives exist.

17 5.85 Jail staff regularly use the restraint chair against inmates with mental
18 illness without providing proper mental health care or keeping them in a more
19 appropriate therapeutic setting.

1 5.86 Jail staff, at the Defendants' direction or with their approval, regularly
2 chain inmates to fixed objects for long periods of time and in a manner that causes
3 physical and psychological injury to inmates.

4 5.87 It is never appropriate to chain any person to a fixed object for any
5 period of time.

6 5.88 There is always an appropriate, less restrictive alternative to chaining
7 people to a fixed object.

8 5.89 Chaining inmates with mental illness to fixed objects is particularly
9 barbaric.

10 5.90 Jail staff, at the Defendants' direction or with their approval, chain
11 inmates to fixed objects for days on end without medical evaluation or monitoring.

12 5.91 Jail staff, at the Defendants' direction or with their approval, regularly
13 chain people to a fence or cage in the Booking Area of the Jail.

14 5.92 Jail staff, at the Defendants' direction or with their approval, leave
15 these inmates chained to the fence or cage for hours or days on end.

16 5.93 Inmates chained to the fence are forced to sleep on the floor of the
17 Booking Area.

18 5.94 Upon information and belief, many of the inmates Jail staff chain up
19 in the Booking Area suffer from serious mental health conditions.

1 5.95 Many of the inmates Jail staff, chain up in the Booking Area, at the
2 Defendants' direction or with their approval, are suffering from suicidal thoughts.

3 5.96 Jail staff, at the Defendants' direction or with their approval, chain
4 these inmates up rather than provide them appropriate mental health care or hold
5 them in an appropriate therapeutic setting.

6 5.97 Jail staff, at the Defendants' direction or with their approval, chained
7 Plaintiff Richard Vinson to the fence for at least a week in July 2014.

8 5.98 Jail staff used metal cuffs to shackle Mr. Vinson's right ankle to the
9 fence by a short metal chain.

10 5.99 Mr. Vinson remained on the floor shackled in this way for a number
11 of days and nights.

12 5.100 Mr. Vinson is currently incarcerated in the Franklin County Jail
13 because he owes legal financial obligations and for violations of his low level
14 criminal sentences.

15 5.101 Mr. Vinson suffers from severe mental illness.

16 5.102 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 Booking, Mr. Vinson bit off
18 his left pinky.

19 5.103 Jail staff transported him to the hospital and returned him to the
20

1 Booking Area floor the same night.

2 5.104 Upon returning to the Jail, Jail staff, at the Defendants' direction or
3 with their approval, chained Mr. Vinson's right ankle and right wrist to the fence
4 with metal cuffs.

5 5.105 Sometime later, Mr. Vinson bit off another finger on his left hand.
6 Jail staff, at the Defendants' direction or with their approval, then chained Mr.
7 Vinson into a chair where he has remained ever since.

8 5.106 During the same period of time in July 2014, Jail staff, at the
9 Defendants' direction or with their approval, chained a woman to the fence for four
10 days with a metal cuff around her left ankle.

11 5.107 She repeatedly assured staff that she was not suicidal and wanted to be
12 released from the fence.

13 5.108 Jail staff refused to release her.

14 5.109 Four days later a mental health specialist finally spoke with her briefly
15 and immediately sent her back to her cell.

16 5.110 Jail staff, at the Defendants' direction or with their approval, regularly
17 chain other inmates to the fence in Booking by their legs or arms using metal cuffs
18 for prolonged periods of time.

19 5.111 This prolonged shackling causes injuries to wrists and ankles that
20

1 worsen the longer the Defendants keep the people chained.

2 5.112 Jail staff, at the Defendants' direction or with their approval, also
3 regularly chain inmates to fixed objects with metal cuffs and shackles in other parts
4 of the Jail.

5 5.113 The Defendants have chained Plaintiffs McVay, Montejano and
6 Kinsey to fixed objects with shackles and chains.

7 5.114 Jail staff, at the Defendants' direction or with their approval, chained
8 up Mr. Kinsey in a holding cell for three days during the Spring of 2014.

9 5.115 Jail staff, at the Defendants' direction or with their approval, lay Mr.
10 Kinsey upon a slab in the holding cell and stretched his arms out above his head.

11 5.116 The Jail staff attached metal hand cuffs to Mr. Kinsey's wrists and
12 chained the handcuffs to a bracket installed on the wall of the holding cell.

13 5.117 The Jail staff also placed Mr. Kinsey in ankle shackles and chained
14 these shackles to another bracket installed on the opposite wall of the cell.

15 5.118 Mr. Kinsey was chained in this position for at least three days.

16 5.119 Jail staff, at the Defendants' direction or with their approval, similarly
17 chained Mr. McVay for a number of hours in a holding cell in the Jail in February
18 2014.

19 5.120 During the Spring of 2014, Jail staff, at the Defendants' direction or
20

1 with their approval, shackled Plaintiffs McVay and Montejano and at least one
2 other man in four point restraints in their cells.

3 5.121 These restraints included metal handcuffs and ankle shackles attached
4 by a chain around the waist.

5 5.122 Mr. Montejano and the other man remained in their cells in these
6 shackles for four and one half days without being released.

7 5.123 Jail staff, at the Defendants' direction or with their approval, confined
8 Mr. McVay for over 20 hours in the restraint chair and additional time shackled in
9 his cell during this period of time.

10 5.124 On or around June 2, 2014, Jail staff, at the Defendants' direction or
11 with their approval, bolted steel plates with a metal ring to the floors of Mr.
12 Montejano's and Mr. McVay's cells.

13 5.125 Jail staff, at the Defendants' direction or with their approval, placed
14 each man in ankle shackles that were attached by chain to two pairs of metal
15 handcuffs.

16 5.126 Jail staff, at the Defendants' direction or with their approval, then
17 attached this device to the steel plates bolted to the cell floors with a cable.

18 5.127 Both men broke the cable cord but remained handcuffed and in ankle
19 shackles.

1 5.128 Jail staff replaced the cable cord with a large chain and padlock the
2 next day and the Plaintiffs were again restrained.

3 5.129 While in mechanical restraints and shackled to the floor, Plaintiffs had
4 serious difficulty standing up or laying down.

5 5.130 The extended periods of shackling caused injury to each man and
6 exacerbated physical conditions.

7 5.131 The long-term use of metal handcuffs and ankles shackles caused
8 blisters, sores and open wounds to the men's wrists and ankles.

9 5.132 The injuries to their wrists and ankles worsened over the hours and
10 days in which the men were shackled.

11 5.133 Except as noted, no medical staff visited any of the people chained to
12 fixed objects described above.

13 5.134 No qualified medical professional conducted any kind of medical or
14 mental health evaluation of any of the people chained up as described above.

15 5.135 The Defendants did not provide on-going medical or mental health
16 monitoring to any of the people during the period in which they were chained up as
17 described above.

18 5.136 The Defendants' chaining has caused the named Plaintiffs and all
19 people subject to these barbaric, medieval actions physical injuries and pain and
20

1 suffering.

2 5.137 The Defendants will continue to direct, authorize or consent to the
3 chaining of people incarcerated at the Jail in the future absent court action.

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

5 5.138 The Defendants authorize or condone the use of pepper spray to
6 punish inmates.

7 5.139 Pepper spray, also known as OC spray, OC gas or capsicum spray, is a
8 chemical agent that attacks the eyes, throat and nasal passages and causes severe
9 pain, blindness, uncontrollable coughing and can in some cases permanently injure
10 someone sprayed or cause death.

11 5.140 Repeated exposure to OC spray can cause permanent injury.

12 5.141 The risk of death increases if individuals suffering from asthma, on
13 drugs, or subject to restraining techniques that restrict breathing passages are
14 sprayed.

15 5.142 Jail Staff carry pepper spray on them at all times when on duty in the
16 Jail.

17 5.143 Upon information and belief, the Defendants have not ensured that all
18 Jail Staff are properly trained in the appropriate use of pepper spray or the proper
19 means by which people who have been sprayed must be decontaminated.

1 5.144 Jail staff, at the Defendants' direction or with their approval, pepper
2 sprayed Plaintiffs McVay and Montejano on a number of occasions during the
3 Spring of 2014.

4 5.145 On number of occasions, Jail staff either opened Mr. McVay's cell
5 door and sprayed pepper spray directly into his eyes, nose and mouth without
6 sufficient cause or warning, or sprayed him with pepper spray through cracks in his
7 door or through the cuffport in his cell door without sufficient cause or warning.

8 5.146 On a number occasions, Jail staff opened Mr. Montejano's cell door
9 and sprayed pepper spray directly into his eyes, nose and mouth without sufficient
10 cause or warning or sprayed him through cracks in his cell door or through the
11 cuffport in his cell door, even though he posed no immediate danger to himself or
12 others.

13 5.147 Jail staff, at the Defendants' direction or with their approval, has
14 pepper sprayed other members of the class in similar ways and in similar
15 circumstances.

16 5.148 Jail staff pepper sprayed these people without guidance from any
17 written policy, procedure or standard of use and without sufficient training.

18 5.149 Jail staff did not properly decontaminate either Mr. McVay, Mr.
19 Montejano, or the other people who were sprayed after any of these pepper
20

1 spraying incidents.

2 5.150 Jail staff did not provide Mr. McVay, Mr. Montejano or the other
3 people with appropriate medical treatment or evaluation after any of these pepper
4 spraying incidents.

5 5.151 Each of these pepper spraying incidents caused the people sprayed
6 severe pain and suffering.

7 5.152 The Defendants directed Jail staff to utilize pepper spray in the
8 manner described above, or after becoming aware that Jail staff were utilizing
9 pepper spray in the manner described above and took no action to better train or
10 supervise Jail staff on the use of pepper spray.

11 5.153 Jail staff will continue to use pepper spray against people incarcerated
12 at the Jail without cause, without proper training or supervision, without adequate
13 written policies, procedures or standards absent court intervention.

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

15 5.154 The Defendants also punish inmates by placing them in isolation and
16 segregation.

17 5.155 The Defendants then subject inmates in segregation to demeaning and
18 inhumane conditions.

19 5.156 The Defendants have designated G Tank in the Jail as the segregation
20

1 unit of the Jail. Inmates and Jail staff call G Tank “the Hole.”

2 5.157 Jail Staff, at the Defendants’ direction or with their approval, place
3 inmates in G-Tank who Jail Staff perceive to have violated Jail.

4 5.158 The people in G-Tank are housed in cells by themselves, without a
5 cellmate.

6 5.159 The Defendants allow the people housed in G-Tank out of their cells
7 for only one hour and only on Mondays, Wednesdays and Fridays.

8 5.160 Otherwise the people in G-Tank are locked alone in their cells.

9 5.161 The Defendants punish inmates in G-Tank by denying them clothing,
10 mattresses and blankets.

11 5.162 The Defendants denied Plaintiffs McVay and Montejano clothing, a
12 blanket or a mattress for many weeks during the Spring and Summer of 2014.

13 5.163 By seizing their mattresses, blankets and clothes, the Defendants
14 forced Mr. McVay and Mr. Montejano to sleep directly upon concrete slabs in their
15 cells and without any protection from the cold temperatures in their cells.

16 5.164 Plaintiff McVay injured his shoulder as a result of sleeping on the
17 concrete slab with no mattress.

18 5.165 Plaintiff Montejano suffered severe back pain as a result of sleeping
19 on the concrete slab.

1 5.166 The lights in Mr. McVay and Mr. Montejano's isolation cells do not
2 work.

3 5.167 The Defendants have refused to repair the lights.

4 5.168 Because of the lack of lights in the cells the men remain in the dark
5 for hours on end.

6 5.169 As a result of the lack of lighting in his cell, Plaintiff Montejano
7 tripped over the metal shackle plate the Jail staff, at the Defendants' direction or
8 with their approval, installed in his cell and injured his knee.

9 5.170 The Defendants disconnected running water to Mr. Montejano and
10 Mr. McVay's cells during the Spring of 2014. The Defendants did not restore
11 water to the cells until July 29, 2014.

12 5.171 The lack of running water required Mr. Montejano and Mr. McVay to
13 sit in their cells in the presence of their own bodily waste for long periods of time.

14 5.172 The cell block in which the men live periodically floods, sending raw
15 sewage into the men's cells.

16 5.173 Jail staff, at the Defendants' direction or with their approval, fail to
17 promptly clean up the cells after these floods.

18 5.174 The Defendants refused to provide Mr. Montejano and Mr. McVay
19 cleaning supplies to clean their cells for many months.

1 5.175 The Defendants finally allowed Mr. McVay and Montejano to mop
2 out their cells for the first time at the end of July, 2014.

3 5.176 The Defendants forced the Plaintiffs to live in filthy and unsanitary
4 conditions because the Defendants deprived them of the supplies necessary to
5 maintain minimally sanitary cells.

6 5.177 The Defendants treat other inmates in a similar fashion and will
7 continue to do so in the future absent court action.

8 5.178 Jail staff, at the Defendants' direction or with their approval, placed
9 Plaintiff Frank Murillo in isolation and segregation and subjected him to the
10 conditions in G-Tank for a number of days in July 2014.

11 5.179 Jail staff, at the Defendants' direction or with their approval, placed
12 Plaintiff Giovanni Kinsey in isolation and segregation and subjected him to the
13 conditions in G-Tank for number of days in June 2014.

14 5.180 Jail staff, at the Defendants' direction or with their approval, have
15 placed other people in isolation and segregation and subjected them to the
16 conditions in G-Tank in the recent past.

17 5.181 Jail staff, at the Defendants' direction or with their approval, will
18 continue to place other people in isolation and segregation and subject them to the
19 conditions in G-Tank in the future absent court intervention.

1 5.182 The Defendants also segregate and isolate people in other areas of the
2 Jail.

3 5.183 Jail staff, at the Defendants' direction or with their approval, forced
4 Plaintiff Teresa Farris to live in a cell by herself for a number of days on twenty
5 three hour lockdown.

6 5.184 Ms. Farris suffers from mental illnesses which make her extremely
7 afraid of being alone.

8 5.185 During the period of time in which Defendants' isolated her in her cell
9 by herself, Ms. Farris became seriously depressed and had thoughts of suicide.

10 5.186 She repeated asked Jail staff to move her into a cell with another
11 person.

12 5.187 Jail staff ignored or refused her repeated requests.

13 5.188 Finally, a jail staff person took pity upon her and allowed her to move
14 into a cell with another person.

15 5.189 Jail staff, at the Defendants' direction or with their approval, also
16 placed Plaintiff Wardell Braxton into segregation for a period of time while he was
17 housed in another pod in the Jail.

18 5.190 Any person at the Jail may be placed into segregation or isolation for
19 any actual or perceived violation of unstated and unclear Jail rules or policies.

1 5.191 The Defendants threaten people incarcerated at the Jail with
2 segregation for even slight alleged transgressions.

3 **E. DENIAL OF DUE PROCESS**

4 5.192 Furthermore, the Defendants have isolated and segregated people and
5 have deprived them of other privileges or disciplined them in other ways without
6 providing them with notice or an opportunity to be heard by an impartial
7 decisionmaker.

8 5.193 The Defendants have not articulated uniform and consistent standards
9 that govern the discipline of inmates, or, to the extent that such standards exist, the
10 Defendants have authorized Jail staff to ignore and violate such standards when
11 imposing discipline upon inmates.

12 5.194 The Defendants regularly punish inmates by placing them in isolation
13 or segregation without cause and without providing them any due process prior to
14 placing them in isolation or segregation.

15 5.195 Jails may not discipline pre-trial inmates without providing them due
16 process of law.

17 5.196 Franklin County has passed an ordinance requiring that the Defendant
18 provide procedural protections before imposing any discipline upon people
19 incarcerated at the Jail.

1 5.197 The ordinance allows the Defendants to discipline inmates by
2 isolating or segregating them, but requires the Defendants to provide specific
3 procedural protections before doing so.

4 5.198 The ordinance requires the Defendants to provide any inmate subject
5 to discipline for a violation of Jail rules, notice of the infraction, a hearing before a
6 panel of neutral decision-makers, a written decision and the opportunity to appeal
7 an unfavorable decision to Jail management.

8 5.199 The ordinance limits the use of segregation or isolation to no more
9 than 15 days for any one violation, and no more than thirty days for all violations
10 arising out of one incident.

11 5.200 This Franklin County ordinance tracks the procedural protections
12 afforded to pre-trial inmates by the Due Process Clause of the Fourteenth
13 Amendment to the United States Constitution.

14 5.201 The Defendants regularly violate the Constitution and Franklin
15 County's ordinance by imposing isolation or segregation and other forms of
16 discipline against inmates without providing any procedural protections.

17 5.202 The Defendants do not provide inmates with any type of handbook,
18 rule book or written guidance regarding the rules, policies and procedures of the
19 facility when they enter the Jail or at any point thereafter.

1 5.203 The Defendants have not posted copies of the facility's rules, policies
2 and procedures anywhere in the Jail that is readily accessible to all inmates.

3 5.204 Nonetheless, the Jail staff, at the Defendants' authorization and
4 supervision, often discipline inmates by segregating or isolating them or by taking
5 other adverse actions against them for unknown and arbitrary reasons.

6 5.205 The Defendants placed Plaintiff Wardell Braxton in isolation as
7 punishment for an alleged violation of Jail rules.

8 5.206 The Defendants did not provide Mr. Braxton anything in writing
9 regarding Jail rules before placing him in segregation.

10 5.207 The Defendants did not provide Mr. Braxton with notice of his
11 infraction or with a hearing prior to placing him in isolation.

12 5.208 The Defendants did not inform Mr. Braxton how long he could expect
13 to remain in segregation.

14 5.209 Mr. Braxton remained in isolation for days before the Defendants
15 released him without explanation.

16 5.210 The Defendants have held Plaintiff McVay in segregation in squalor
17 in G-Tank since February 28, 2014.

18 5.211 The Defendants did not provide him with written notice of the basis
19 for his isolation prior to placing him in segregation.

1 5.212 The Defendants did not provide him with a hearing prior to placing
2 him in segregation or at any subsequent time.

3 5.213 The Defendants have failed to inform Mr. McVay how long he can
4 expect to remain in segregation.

5 5.214 The Defendants have held Mr. Montejano in segregation in squalor in
6 G-Tank for many months.

7 5.215 The Defendants did not provide him with written notice of the basis
8 for his isolation prior to placing him in segregation.

9 5.216 The Defendants did not provide him with a hearing prior to placing
10 him in segregation or at any subsequent time.

11 5.217 The Defendants have failed to inform Mr. Montejano how long he can
12 expect to remain in isolation and segregation.

13 5.218 The Defendants placed Plaintiffs Murillo and Kinsey into segregation
14 in G-Tank, without notice or an opportunity to be heard and without providing
15 them clear standards or rules by which they could judge their conduct.

16 5.219 The Defendants have placed other inmates in segregation without
17 cause, without providing any procedural protections and without providing inmates
18 notice of applicable Jail rules and the consequences of violating those rules.

19 5.220 Jail staff have taken away the out of cell time from all of the
20

1 Plaintiffs, including Plaintiffs Farris and Eddington, at one point or another during
2 their incarceration, without notice and without an opportunity for a hearing to
3 contest the discipline.

4 5.221 Jail staff has done so to many other people incarcerated at the Franklin
5 County Jail as well.

6 5.222 The Defendants will continue to discipline people incarcerated in the
7 Jail without providing any procedural protections in the future absent court action.

8 **F. JAIL-WIDE 23 HOUR LOCKDOWN**

9 5.223 The Defendants have ordered the permanent lockdown of most people
10 incarcerated at the Jail.

11 5.224 Most inmates incarcerated in the Jail are locked in their cells for at
12 least 23 hours a day.

13 5.225 Defendants allow the people in the G-Tank segregation cells out of
14 their cells for only one hour on Mondays, Wednesdays and Fridays.

15 5.226 A few people with jobs within the Jail are allowed out of their cells
16 more often.

17 5.227 With the exception of the segregation cells in G-Tank, in which
18 people are confined alone, people in other pods generally share cells with one to
19 three other inmates.

20

1 5.228 However, even in other pods it is not uncommon for the Defendants to
2 house individuals alone in cells.

3 5.229 If housed with others, the people in each cell conduct all of their
4 intimate activities in close proximity to and in direct view of all of the other people
5 in the cell during all of their 23 hours locked down.

6 5.230 Plaintiffs have very few activities that they can pursue while locked in
7 their cells 23 or more hours a day.

8 5.231 The Defendants do not provide any type of programming to people
9 incarcerated in the Jail.

10 5.232 The Defendants do not provide any religious services to people
11 incarcerated in the Jail.

12 5.233 The Defendants do not provide any education services, therapeutic
13 groups or athletic recreation to people incarcerated in the Jail.

14 5.234 There is no law library or other type of library.

15 5.234 Cells do not have radios or televisions.

16 5.235 Nor do the dayrooms into which people are released on their hour out.

17 5.236 The Defendants release the inmates from one cell at a time into the
18 day room in each cell block and then only for an hour.

19 5.237 During their one hour out a day, people are expected to shower,
20

1 exercise and use the telephone.

2 5.238 All of these activities occur within the pod dayroom to which a few
3 individual cells are attached.

4 5.239 With few exceptions, everyone incarcerated at the Jail is on lockdown
5 at least twenty three hours a day, without regard to their individual criminal
6 charges or their past conduct while incarcerated.

7 5.240 The Defendants have no individualized, objective classification
8 system by which they identify the appropriate level of security and housing
9 assignment for each individual person depending on the individual characteristics
10 of each person.

11 5.241 Decisions regarding housing assignments and security levels are
12 arbitrary and ad hoc.

13 5.242 Inmates are placed in isolation without cause and without regard to
14 actual security needs of the Jail.

15 5.243 An appropriate, objective, individualized classification system would
16 eliminate any need for a jail-wide, twenty three hour lockdown.

17 5.244 By locking most people in their cells for at least twenty three hours
18 per day, the Defendants have exacerbated many people's existing mental health
19 conditions and caused all people incarcerated in the Jail physical, emotional and
20

1 psychological injuries.

2 5.245 The Defendants will continue to subject all members of the class to at
3 least 23 hour lockdown absent court intervention.

4 **G. DENIAL OF OUTDOOR RECREATION**

5 5.246 When inmates have their one hour out of cell time they are generally
6 only allowed into the day room of the pod to which their cell is attached.

7 5.247 The day rooms are not open to the outdoors.

8 5.248 The Jail has two small, concrete recreation pens.

9 5.249 The small pens are surrounded by tall concrete walls that have no
10 windows in them.

11 5.250 The roofs of the pens are open to the air.

12 5.251 The pens are empty. There are no benches, tables, or exercise
13 equipment in either of the pens.

14 5.252 The Jail does not allow people to take any kind of exercise or athletic
15 equipment into the pens with them and does not provide any such equipment to
16 them.

17 5.253 Even though these small pens exist, Defendants rarely allow any
18 inmates access to these pens.

19 5.254 Plaintiff Eddington has not been outside for a number of weeks and
20

1 only twice since he was booked into the Jail on May 26, 2014.

2 5.255 Similarly, Plaintiff Farris has only been outside on a couple of
3 occasions since March 23, 2014.

4 5.256 Plaintiffs McVay and Montejano have only been outside one time
5 during the entire time they have been incarcerated at the Franklin County Jail.

6 5.257 All inmates should have access to regular outside exercise and
7 recreation.

8 5.258 Many inmates have gone months at a time without ever breathing
9 fresh air or feeling the warmth of the sun.

10 5.259 Defendants denial of adequate outdoor exercise, sunlight and open air
11 and has caused the Plaintiffs and members of the class physical and psychological
12 harm.

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

14 5.260 The Defendants through a series of steps have significantly and
15 unnecessarily limited inmates' contact with their children, wives, husbands,
16 mothers, fathers, and other loved ones.

17 5.261 The Defendants have done this by prohibiting all face to face visits,
18 limiting mail to only two post cards per week, and restricting access to the
19 telephone.

1 5.262 The Defendants' policies have seriously damaged inmates'
2 relationships with their family members.

3 5.263 The Defendants prohibit all face to face visitation between inmates
4 and their family or friends.

5 5.264 The Defendants have completely denied inmates face to face visits for
6 many months.

7 5.265 Because of Defendants' policy, no person incarcerated at the Jail has
8 had a visit from family since February 2014.

9 5.266 The denial of face to face visits is particularly difficult for young
10 children and parents of young children.

11 5.267 Face to face contact is essential to maintain strong connections
12 between children and their parents.

13 5.268 Plaintiff Frank Murillo's child was two months old when Mr. Murillo
14 was incarcerated at the Jail.

15 5.269 Mr. Murillo's grandmother is currently visiting the Tri-Cities from out
16 of state.

17 5.270 Mr. Murillo has not seen his grandmother in a number of years.

18 5.271 Because of the Defendants' policy, Mr. Murillo has had no contact
19 with his child for several months and will not be able to see his grandmother
20

1 during her visit to the area.

2 5.272 Similarly, Plaintiff Teresa Farris, who suffers from severe depression,
3 cannot receive visits from her sister or other family members.

4 5.273 The Defendants have unreasonably interfered with these relationships
5 by prohibiting all face to face visits.

6 5.274 In addition to denying all face to face contact, the Defendants prohibit
7 all non-legal mail, except for postcards.

8 5.275 The postcard-only policy prohibits inmates from receiving any written
9 communication from family or friends, except for postcards.

10 5.276 The postcard-only policy severely hampers inmates and their families
11 from sharing important, intimate information.

12 5.277 The Defendants limit indigent inmates to two post cards per week.

13 5.278 The Defendants will not deliver letters, pictures, children's report
14 cards, drawings, medical records or other important documents sent to Plaintiffs
15 from their families if they are delivered in envelopes.

16 5.279 Any such items are either returned to the sender or held by the Jail.

17 5.280 The Defendants do not notify inmates about withheld mail and do not
18 deliver withheld mail to inmates.

19 5.281 Defendants also limit contact between people incarcerated in the jail
20

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

2 5.282 Defendants charge \$5.00 for every ten minutes of phone time.

3 5.283 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 5.284 On their own, each of these policies severely and unreasonably limits
7 the ability of people to communicate with their families.

8 5.285 Together, the Defendants' policies make it extremely difficult for
9 inmates to maintain contact with their children, parents, spouses, siblings, and
10 other loved ones.

11 5.286 Defendants' unreasonable interference with familial relationships has
12 injured every Plaintiff and every member of the Plaintiff class.

13 5.287 No legitimate penological interests justify any of the Defendants'
14 illegal actions described above.

15 **VI. CLAIMS FOR RELIEF**

16 6.1 Based upon the facts alleged above, the plaintiffs make the following
17 claims for relief on behalf of themselves and all other similarly situated people:

18 **FIRST CLAIM FOR RELIEF – VIOLATION OF DUE PROCESS CLAUSE**

19 6.2 The Defendants Franklin County, Sheriff Richard Lathim and Captain
20

1 Rick Long have acted under color of state law and violated rights secured to the
2 plaintiffs and members of the plaintiff class by the Due Process Clause of the
3 Fourteenth Amendment to the United States Constitution, which are actionable
4 pursuant to 42 U.S.C. § 1983, as follows:

5 (a) The Defendants have subjected the Plaintiffs and members of
6 the Plaintiff class to discipline without uniform and consistent
7 standards and without providing them notice or a hearing before
8 an impartial decision maker.

9 (b) The Defendants have punished the plaintiffs and members of
10 the plaintiff class or threatened to punish them by:

11 (i) Chaining them to fixed objects for long periods of time;

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

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

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

- 1 (v) Isolating them alone in a cell without cause and without
2 appropriate supervision or monitoring;
- 3 (vi) Subjecting members in segregation to inhumane,
4 degrading and deplorable living conditions;
- 5 (vii) Locking all members of the class in their cells for a
6 minimum of twenty three hours a day without regard to
7 the individual member's medical or mental health
8 condition and without any process by which to determine
9 the actual security needs of the institution or the
10 appropriate classification of individual members;
- 11 (viii) Barring them access to fresh air and outdoor recreation;
- 12 (ix) Confining them in a Jail in which all of the conditions
13 described above singly and collectively cause
14 unreasonable, unnecessary and wanton physical,
15 emotional and psychological injury to each plaintiff and
16 to every other member of the Plaintiff class;
- 17 (x) Failing to properly train staff in order to avoid staff
18 acting in the illegal and unconstitutional ways described
19 above;
- 20

1 (xi) Failing to properly supervise Jail staff in order to ensure
2 that staff act in legal and constitutional ways while
3 employed at the Jail; and

4 (xii) Failing to promulgate uniform and consistent policies,
5 procedures and standards so as to ensure that the Jail staff
6 operate the Jail in lawful manner.

7
8 **SECOND CLAIM FOR RELIEF – VIOLATION OF
EIGHTH AMENDMENT**

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

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

- 16 (i) Chaining them to fixed objects for long periods of time;
17 (ii) Restraining them in a restraint chair for long periods of
18 time without cause and without adequate monitoring;

- 1 (iii) Otherwise restraining them for long periods of time
2 without cause and without adequate monitoring;
- 3 (iv) Pepper spraying them without cause and by then failing
4 to provide them with adequate medical care or
5 decontaminating them;
- 6 (v) Isolating them alone in a cell without cause and without
7 supervision or monitoring;
- 8 (vi) Subjecting members in segregation to inhumane,
9 degrading and deplorable living conditions;
- 10 (vii) Locking all members of the class in their cells for a
11 minimum of twenty three hours a day without regard to
12 the individual member's medical or mental health
13 condition and without any process by which to determine
14 the actual security needs of the institution or the
15 appropriate classification of individual members;
- 16 (viii) Barring them access to fresh air and outdoor recreation;
- 17 (ix) Confining them in a Jail in which all of the conditions
18 described above singly and collectively cause
19 unreasonable, unnecessary and wanton physical,
20

1 emotional and psychological injury to each plaintiff and
2 to every other member of the Plaintiff class;

3 (x) Failing to properly train staff in order to avoid Staff
4 acting in the illegal and unconstitutional ways described
5 above;

6 (xi) Failing to properly supervise Jail staff in order to ensure
7 that staff act in legal and constitutional ways while
8 employed at the Jail; and

9 (xii) Failing to promulgate uniform and consistent policies,
10 procedures and standards so as to ensure that the Jail staff
11 operate the Jail in lawful manner; govern the operations
12 of the Jail and procedures.

13 **THIRD CLAIM FOR RELIEF – VIOLATION OF FIRST AMENDMENT**
14 **RIGHT OF ASSOCIATION**

15 6.4 The Defendants Franklin County, Sheriff Richard Lathim and Captain
16 Rick Long have acted under color of state law and violated rights secured to the
17 plaintiffs and members of the plaintiff class by the First Amendment to the United
18 States Constitution, which are actionable pursuant to 42 U.S.C. § 1983, as follows:

- 1 (a) Barring the Plaintiffs or members of the Plaintiff class from
2 face to face visits with their family members and friends.
- 3 (b) Barring the Plaintiffs or members of the Plaintiff class from
4 sending or receiving mail to or from family members and
5 friends, with the exception of post cards.
- 6 (c) Barring the Plaintiffs and members of the Plaintiff class access
7 to affordable telephone services.
- 8 (d) Imposing these policies upon the Plaintiffs and the members of
9 the Plaintiff class which individually and collectively severely,
10 unreasonably and unnecessarily limits contact between people
11 incarcerated at the Jail and their family members and friends.

12 **VII. PRAYER FOR RELIEF**

13 The Plaintiffs respectfully request that this Court:

14 7.1 Certify this action as a class action.

15 7.2 Issue a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring

16 that:

- 17 (a) The Defendants have violated the rights secured the Plaintiffs
18 and the members of the Plaintiff class by the Eighth
19
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1 Amendment and the Due Process Clause of the Fourteenth
2 Amendment to the United States Constitution by:

- 3 (b) disciplining the Plaintiffs and members of the Plaintiff class
4 without uniform and consistent standards and without providing
5 them notice or a hearing before an impartial decision maker.
- 6 (c) punishing the Plaintiffs and members of the Plaintiff class by
7 ordering, approving or condoning of the following actions by
8 Jail staff:
- 9 (i) Chaining them to fixed objects for long periods of time;
 - 10 (ii) Holding them in a restraint chair for long periods of time
11 without cause and without adequate monitoring;
 - 12 (iii) Otherwise restraining them for long periods of time
13 without cause and without adequate monitoring;
 - 14 (iv) Pepper spraying them without cause and then denying
15 them adequate medical care and refusing to properly
16 decontaminate them;
 - 17 (v) Isolating them alone in a cell without cause and without
18 appropriate supervision or monitoring;
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20

- 1 (vi) Subjecting members in segregation to inhumane,
2 degrading and deplorable living conditions;
- 3 (vii) Locking them in their cells for a minimum of twenty
4 three hours a day without regard to the individual
5 member's medical or mental health condition and
6 without any process by which to determine the actual
7 security needs of the institution or the appropriate
8 classification of individual members;
- 9 (viii) Barring them access to fresh air and outdoor recreation;
- 10 (ix) Confining them in a Jail in which all of the conditions
11 described above singly and collectively cause
12 unreasonable, unnecessary and wanton physical,
13 emotional and psychological injury to each plaintiff and
14 to every other member of the Plaintiff class;
- 15 (x) Failing to properly train staff in order to avoid staff
16 acting in the illegal and unconstitutional ways described
17 above;
- 18 (xi) Failing to properly supervise Jail staff in order to ensure
19 that staff act in legal and constitutional ways while
20

1 employed at the Jail;

2 (xii) Failing to promulgate uniform and consistent policies,
3 procedures and standards so as to ensure that the Jail staff
4 operate the Jail in a lawful manner;

5 (xiii) The Defendants have violated rights secured the
6 Plaintiffs and the members of the Plaintiff class by the
7 First Amendment of the United States Constitution by:

8 (xiv) Barring the Plaintiffs or members of the Plaintiff class
9 from face to face visits with their family members and
10 friends;

11 (xv) Barring the Plaintiffs or members of the Plaintiff class
12 from sending or receiving mail to or from family
13 members or friends, with the exception of post cards.

14 (xvi) Barring the Plaintiffs and members of the Plaintiff class
15 access to affordable telephone services.

16 (xvii) Imposing these policies upon the Plaintiffs and the
17 members of the Plaintiff class which individually and
18 collectively severely, unreasonably and unnecessarily
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1 limits contact between people incarcerated at the Jail
2 and their family members.

3 7.3 Preliminarily and permanently enjoin the Defendants, their agents,
4 employees, and all persons acting in concert with them from:

- 5 (a) Disciplining any person incarcerated at the inmate without
6 proper notice and an opportunity for a hearing before an
7 impartial decision-maker and without complying with the
8 requirements of applicable statutes, laws or ordinances;
- 9 (b) Chaining any inmate to any fixed object for any reason and for
10 any length of time and using any restraints or chains without
11 uniform and consistent policies and procedures, without on-
12 going and appropriate medical evaluation and supervision and
13 without appropriate documentation, for an unreasonable period
14 of time or in a manner that causes physical or psychological
15 pain or injury;
- 16 (c) Restraining any inmate in a restraint chair without uniform and
17 consistent policies and procedures, without on-going and
18 appropriate medical evaluation and supervision, without
19 appropriate documentation, for unreasonable period of time or
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1 in a manner that causes physical or psychological pain or
2 injury.

3 (d) Pepper spraying inmates without cause and without uniform
4 and consistent policies and procedures, without on-going and
5 appropriate medical evaluation and supervision, and without
6 appropriate documentation.

7 (e) Utilizing any other type of physical force against inmates
8 without cause and without uniform and consistent policies and
9 procedures, without on-going and appropriate medical
10 evaluation and supervision and without appropriate
11 documentation.

12 (f) Segregating or isolating any inmate without cause and without
13 uniform and consistent policies and procedures, without on-
14 going and appropriate medical evaluation and supervision, and
15 without appropriate documentation and for an unreasonable
16 period of time.

17 (g) Barring any inmate regular access to the out of doors;

18 (h) Locking any inmate in a cell alone or with other inmates for
19 long periods of time without regard to the inmate's medical or
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1 mental health condition and irrespective of the inmate's conduct
2 or security classification;

3 (i) Barring any inmate regular visitation with family and friends;

4 (j) Barring any inmate from mailing or receiving mail other than
5 post cards;

6 (k) Barring any inmate access to affordable telephone services; and

7 (l) Subjecting any inmate to inhumane, degrading and deplorable
8 living conditions.

9 7.4 Appoint a Special Master pursuant to Fed. R. Civ. Pro. 53 to oversee
10 the Defendants' compliance with any orders the Court will issue in the future.

11 Order the Defendants to provide all appropriate and necessary funds to compensate
12 the Special Master for his or her duties.

13 7.5 Award Plaintiffs' reasonable attorneys' fees and costs pursuant to 42
14 U.S.C. § 1988 and any other applicable statute or court rule.

15 7.6 Award Plaintiffs and members of the Plaintiff class such other and
16 further relief as justice may require.

1 Respectfully submitted this 2nd day of August, 2014.

2
3 COLUMBIA LEGAL SERVICES

4 _____
Nicholas

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