

DISTRICT JUDGE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

C.S., a minor, by and through his mother,
SONYA STOKES, J.R., a minor, by and through
his mother, QUINIECA TAYLOR, D.B., a
minor, by and through his mother, KIMBERLEY
FALL, and K.C., by and through his guardian ad
litem, MARIE CALLENDRET, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

KING COUNTY,

Defendant.

CLASS ACTION

No. 2:17-cv-01560-JCC

FIRST AMENDED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF

I. PRELIMINARY STATEMENT

1.1 This class-action civil-rights lawsuit challenges King County’s pervasive policy
and practice of holding children who have not been convicted of any crime in long term solitary
confinement (“isolation”) at King County’s Maleng Regional Justice Center (“RJC”) at the King
County Jail and of denying children held at the RJC an adequate education.

1.2 Despite a scientific consensus that isolation places children at risk of serious
emotional, psychological and physical harm, King County has embraced its frequent and

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1 arbitrary use at the RJC and King County Jail.

2 1.3 King County regularly confines children incarcerated at the RJC alone in
3 miniscule, barren cells for 23 or 24 hours a day in a unit dedicated to isolating children
4 (“Children’s Isolation Unit”). King County holds children in these isolation cells for weeks or
5 months on end.

6 1.4 These children, many of whom already have mental illnesses, have little to
7 nothing to do in their isolation cells: no meaningful human interaction, little to no education or
8 programming, no music or television, and very few reading materials. Even when allowed out of
9 their cells, children in isolation are alone in the day room. Any “recreation” the children in
10 isolation receive takes place alone in an empty, concrete pen.

11 1.5 Isolating children so that they have minimal meaningful social contact causes
12 trauma, depression, anxiety, and psychosis, increases the risk of suicide and self-harm, and
13 permanently interferes with a child’s psychological and social development. For children with
14 mental illnesses or disabilities, the risk of harm from isolation is even greater because those
15 illnesses or disabilities worsen.

16 1.6 Compounding the profound consequences of King County’s wanton use of
17 isolation, King County is also denying all children held at the RJC basic educational services and
18 programming.

19 1.7 King County gives children in isolation only a few minutes of face-to-face
20 instruction. They are then left to complete paper worksheets alone in their cells.

21 1.8 Even children in general population get no more than an hour of instruction.

22 1.9 The vast majority of children injured by King County’s illegal actions are children

1 of color. Of the children King County sent to the RJC in 2016 86% were children of color. In
2 2015, every child King County locked up at the RJC were a child of color.

3 1.10 By holding children in isolation for long periods of time and refusing to provide
4 them an adequate education, King County has violated and continues to violate the rights of all
5 children held at the RJC; rights guaranteed them by the United States and Washington
6 constitutions, the Individuals with Disabilities Education Act (“IDEA”) and other applicable
7 laws.

8 1.11 Plaintiffs seek to certify a class of all children King County currently houses at
9 the RJC and all such children it will hold there in the future and ask the Court to issue
10 declaratory and injunctive relief that will end King County’s unlawful policies and practices.

11 **II. PARTIES**

12 ***Plaintiffs***

13 2.1 The Plaintiff, D.B., represented by his mother Kimberley Fall, is a minor under
14 the age of 18, who has been injured by King County’s actions as described herein.

15 2.2 The Plaintiff, C.S., represented by his mother Sonya Stokes, is a minor under the
16 age of 18, who has been injured by King County’s actions as described herein.

17 2.3 The Plaintiff, J.R., represented by his mother Quinieca Taylor, is a minor under
18 the age of 18, who has been injured by King County’s actions as described herein.

19 2.4 The Plaintiff, K.C., represented by his stepmother/guardian ad litem Maria
20 Callendret, is a minor under the age of 18, who has been injured by King County’s actions as
21 described herein.

1 ***Facts About The Children That King County Isolates.***

2 3.4 Under Washington law, any child a prosecutor charges with one of a list of a
3 certain crimes who is 16 or 17 at the time of the alleged offense is automatically referred to the
4 adult criminal justice system for the adjudication of the criminal charge.

5 3.5 Younger children may also be sent to the adult system, but only after a Superior
6 Court Judge holds a hearing and determines that adult jurisdiction is appropriate.

7 3.6 By policy and practice, King County generally holds all children charged as
8 adults in King County at the RJC pending resolution of their criminal cases. This has been King
9 County's policy and practice for a number of years.

10 3.7 On occasion, a child charged as an adult may be held at the King County Jail, if a
11 King County employee determines that "[m]edical, psychiatric, or security issues require" that
12 the child be held at the King County Jail and not at the RJC.

13 3.8 Typically, King County holds 15 to 25 children at the RJC at any given time.

14 3.9 These children have not been convicted, but are detained at the RJC awaiting trial.

15 3.10 Depending on the nature of the charged offense, the County may detain a child in
16 jail at the RJC for months or even years.

17 3.11 Nonetheless, King County holds many children at the RJC in isolation, alone in
18 their cells, for days, weeks or months on end.

19 3.12 Generally, the children held at the RJC and their families do not have the financial
20 means to afford bail that would allow the children to leave jail pending the dispositions of their
21 cases.

22 3.13 The vast majority of children that King County charges as adults are children of

1 color.

2 3.14 In 2015, every child charged as an adult in King County was a child of color.

3 3.15 In 2016, 86% of the children charged as adults in King County were children of
4 color.

5 3.16 As a consequence, the vast majority of children held at the RJC and King County
6 Jail are children of color, as are the vast majority of children King County holds in isolation and
7 fails to properly educate.

8 3.17 The vast majority of the children come from families experiencing severe poverty.

9 3.18 Many who arrive at the RJC have experienced homelessness prior to their
10 incarcerations.

11 3.19 Many have mental or physical disabilities.

12 3.20 Many have suffered physical, emotional or sexual abuse in their pasts.

13 3.21 Many come from families that have suffered serious disruptions and social
14 dislocation.

15 3.22 Many have suffered psychological injuries from being taken from their families
16 by the State and placed in Washington’s foster care system.

17 3.23 King County holds these children in its adult jails even though many will
18 eventually be sentenced as juveniles because of plea deals.

19 ***Facts About The Children’s Isolation Unit At The RJC.***

20 3.24 The children are housed in one of three different housing units at the RJC; Mary
21 East, Nora West, and the Children’s Isolation Unit.

22 3.25 These units or pods are differentiated based on the freedoms and privileges that

1 are allowed and the classification levels of the children.

2 3.26 The Children’s Isolation Unit King County operates at the RJC consists of a few
3 cells that are small and stark.

4 3.27 A typical cell is small and contains a stainless steel toilet, a sink, a mattress, and
5 an overhead fluorescent light. The cell floors and walls are concrete. The cells have no windows
6 to the outside and natural light does not enter them. The cell door is solid with narrow Plexiglas
7 windows. A “pass through” slot allows correctional officers to pass meals to the youth locked
8 inside. The cells have no phones, radios, or televisions.

9 3.28 Children held in isolation spend at least 23 hours a day locked in their cells.

10 3.29 Often King County fails to allow children out of their cells for even an hour a day.

11 3.30 On many occasions, children have been held for 47 or 48 hours at a time and even
12 more without being allowed out of their cells.

13 3.31 On occasion, children, including the Plaintiffs, have been allowed out of their
14 cells for only 15 minutes every three days.

15 3.32 When children are allowed out of their cells, they are alone in the day room that
16 adjoins their cell.

17 3.33 King County isolates children in order to punish them for minor misbehaviors.

18 3.34 King County refers to this type of isolation as “disciplinary housing.”

19 3.35 These decisions are often arbitrary and based on minor misbehaviors that are
20 common for many teenagers, and common particularly for children who have been confined
21 alone in a cell with nothing to do for days or weeks on end.

22 3.36 For example, children have been placed in isolation for failing to meet dress code

1 rules, mouthing off to correctional officers, placing jam in a key hole, and refusing to quiet
2 down.

3 3.37 Not addressing a staff member by his proper title, annoying the staff, being loud,
4 or violating the dress code can result in weeks or months of isolation.

5 3.38 Once a child is placed in isolation, correctional officers regularly take all or some
6 of the child's "out of cell time" for alleged transgressions of RJC rules, meaning that children
7 remain alone in their cells for days at a time without being allowed out.

8 3.39 Some children are held for weeks or months beyond the date which they are
9 scheduled to be released from isolation.

10 3.40 King County also holds children in isolation for reasons other than punishment.

11 3.41 King County holds children in "protective custody" isolation when there is a
12 concern that a particular child may not be able to live alongside other children held at the RJC.

13 3.42 This "protective custody" isolation is identical to the "disciplinary housing"
14 isolation that King County imposes on many children.

15 3.43 "Protective custody" isolation entails at least 23 hours a day of isolation in a cell
16 alone with no meaningful social interaction, environmental stimulation, or human contact.

17 3.44 Children have been held in "protective custody" isolation for months because
18 King County has not provided them with any alternative housing option that does not require
19 isolation.

20 3.45 King County has other locations where it could house children in need of
21 protection that would not require them to be alone. Nonetheless, King County refuses to place
22 children in more appropriate housing.

1 3.46 One child was placed in “protective custody” isolation because of threats he had
2 received from other youth. As a result, he spent 5 months alone in a cell, even though King
3 County has other locations where he could have been housed with other children.

4 3.47 Children locked in King County’s Children’s Isolation Unit have virtually no
5 meaningful human interaction.

6 3.48 “Recreation” consists of being placed alone in a small, barren box with a concrete
7 floor, concrete walls and little else.

8 3.49 Before being able to leave a cell for a visit with family, the child must place his or
9 her hands through the metal slot in the door to be handcuffed.

10 3.50 Many children held in isolation are handcuffed and escorted by two correctional
11 officers whenever they are visited by family or friends, further humiliating the child in front of
12 their loved ones.

13 3.51 Children in the isolation cells cannot participate in any group recreational
14 activities, such as basketball, cards or chess.

15 3.52 While in isolation, children are not allowed to order anything from the
16 commissary. As a result, many children held in isolation report being hungry.

17 3.53 They are denied other privileges as well.

18 3.54 Additionally, children in isolation are regularly denied access to reading or
19 writing materials or other items that would help them to pass the time while locked in their cells
20 by themselves.

21 3.55 They eat their meals alone in their cells.

22 3.56 They receive no meaningful education while in isolation.

1 3.57 Their time out is the only time when they can go outside to the rec yard, use the
2 telephone, watch t.v., or take a shower.

3 3.58 They are alone, even in the rec yard.

4 3.59 King County has severely restricted the times when parents and other family
5 members may visit children held at the RJC to only a few hours a week.

6 3.60 King County refuses to allow parents to visit their children if they can't get to the
7 RJC because of work, family commitments, or lack of transportation during the few hours King
8 County permits visits.

9 3.61 Furthermore, while children may have access to a telephone, King County
10 charges families a significant amount for use of the telephone. Many families do not have the
11 money for frequent phone calls. Consequently, children in isolation may go days or weeks
12 without any contact with family.

13 3.62 Children's requests for help and written grievances are routinely and regularly
14 ignored by staff.

15 3.63 Nearly every aspect of living in King County's Children's Isolation Unit is
16 dehumanizing.

17 3.64 Depending on the circumstances, children may be shackled, pepper sprayed, or
18 strip searched by jail staff.

19 3.65 Staff members regularly use profanities, mock the children and treat them with
20 disrespect.

21 3.66 Children report being sworn at, called "stupid" and told to "shut up" regularly by
22 staff.

1 3.67 A few of the correctional officers are particularly unpleasant.

2 3.68 One particular correctional officer asked a child of color with a Latinx-sounding
3 surname, “You’re still here? I thought with the president cracking down you would’ve been
4 deported by now.” The youth informed the officer that he was Native American and a United
5 States citizen.

6 3.69 One youth subject to days of such disrespect from the same officer finally
7 snapped and spit in his face. He was immediately sent to isolation where he remained for two
8 months.

9 3.70 When his designated 7-day period of disciplinary isolation had passed, he was not
10 sent back to one of the other two pods. Instead he remained in isolation without explanation for
11 60 days.

12 3.71 Another child got into a verbal altercation with another youth and was sent to
13 isolation for several days. After fulfilling the time he had been given for the disciplinary
14 infraction, he was not returned to his original pod. Instead, he was told that there was no space in
15 either of the other pods, and he would have to stay in isolation until space became available.

16 3.72 King County has not provided the correctional officers who supervise the children
17 at the RJC or King County Jail with specialized training on how to manage children or teenagers,
18 unlike the staff at the juvenile detention facility.

19 3.73 King County has not promulgated appropriate policies and procedures that govern
20 the management of children at the RJC or King County Jail.

21 3.74 King County has not properly supervised the correctional officers who watch over
22 the children at the RJC or the King County Jail in order to ensure that they do not antagonize

1 children or drive them to commit misbehaviors that lead to their isolation.

2 3.75 King County has not put in place appropriate procedural safeguards to protect
3 children with mental health disorders from being isolated and that they get the attention and
4 support that they need in order to avoid behaviors that might lead to their isolation.

5 3.76 King County allows correctional officers to take children's out of cell time
6 arbitrarily and without justification.

7 3.77 King County approves of the use of long-term isolation against children.

8 ***Facts About The Isolation Of Children At The King County Jail.***

9 3.78 At times, King County places children in isolation at the King County Jail in
10 downtown Seattle. Typically this occurs because the child has been identified as in need of
11 mental health or medical services.

12 3.79 King County places children in isolation at the King County Jail if it believes that
13 the child may be suicidal or a threat to hurt him or herself.

14 3.80 By policy, all children held at the King County Jail are held in what King County
15 calls "single cell housing."

16 3.81 "Single cell housing" is isolation, in that children are locked alone in a cell for
17 long periods of time.

18 3.82 Children held at the King County Jail are held in a unit designed to provide
19 mental health interventions for adult inmates in crisis.

20 3.83 These children are held alone in their cells for long periods of time without being
21 allowed out; sometimes for as long as 72 hours at a time.

1 ***Facts Showing That King County Isolates All Of The Children At The RJC For Long***
2 ***Periods Of Time.***

3 3.84 Children held in the Children's Isolation Unit and at the King County Jail are
4 subject to the conditions, customs, policies and practices set forth above. However, even children
5 held in the general population pods at the RJC are subject to long-term isolation.

6 3.85 King County has a practice of locking down youth in the general population, Nora
7 West unit, for 21 hours per day.

8 3.86 Each cell in Nora West unit holds a single child. These children have therefore
9 been held in isolation for 21 hours a day.

10 3.87 Due to King County's policies and practices every child held at the RJC has been
11 isolated or will be isolated in the future.

12 ***Facts About How King County Is Harming Children.***

13 3.88 Potentially dangerous for anyone, solitary confinement is especially harmful for
14 children, who are still developing physically, psychologically, and socially.

15 3.89 King County has a special relationship with the children under its care.

16 3.90 As a result of this special relationship, King County has a duty to protect and
17 maintain the health, safety and welfare of all the children it holds at the RJC.

18 3.91 Nonetheless, King County's use of isolation is inflicting serious harm on children
19 and exposing them to a substantial risk of serious harm.

20 3.92 King County's use of isolation at the RJC has caused children to suffer from
21 suicidal ideation or intent, anxiety, depressive symptoms, post-traumatic symptoms, and
22 worsening behavior.

1 3.93 Children have reported feeling “crazy,” depressed, and anxious from the lack of
2 stimulation caused by isolation and the lack of contact with others.

3 3.94 Some are unable to sleep at night because of the anxiety and depression caused by
4 being isolated for days at a time.

5 3.95 Their sleep is also troubled by the screams of adult inmates that they can hear
6 through their vents throughout the night.

7 3.96 Some wonder whether those voices are actually real.

8 3.97 Some feel as though they “are not going to make it” because of the uncertainty
9 about how long they will be held alone in their cells.

10 3.98 Others report talking to themselves and having physical symptoms, like stomach
11 and headaches, related to the stress and boredom of long-term isolation.

12 3.99 Children have threatened suicide as a consequence of being isolated for so long.

13 3.100 Children report that because of the stress caused by long-time isolation, they have
14 agreed to accept plea deals in order to get out of isolation and into a different facility that does
15 not isolate children.

16 3.101 The parents of children isolated at the RJC have indicated that the long term
17 isolation has affected their children’s moods, emotions and personalities.

18 ***Facts Showing That King County Does Not Provide Mental Health Evaluations,***
19 ***Monitoring Or Treatment To The Children It Isolates At The RJC.***

20 3.102 Isolation is particularly awful for children who suffer from mental health
21 disorders.

22 3.103 Children in isolation do not receive mental health evaluations upon being placed

1 in isolation cells or at any time during their confinement in them.

2 3.104 Children housed in King County's children isolation unit are not monitored by
3 any qualified mental health professional.

4 3.105 No counselor, therapist or mental health professional regularly or routinely
5 inquires about the mental health or wellbeing of the children held in King County's children
6 isolation unit.

7 3.106 King County does not evaluate how isolating children will affect their mental
8 health or how it might injure them.

9 3.107 King County does not notify a child's parents when he or she is placed in
10 isolation, explain the reasons for that isolation or explain when the child will be released and
11 under what conditions.

12 3.108 As described above, because of the severe limitations King County places on
13 visitation and the costs of telephone calls, parents may have no other way of finding out what
14 King County is doing to their child.

15 3.109 King County has not provided the children at the RJC or the King County Jail
16 with counseling, mental health support, specialized staff or other interventions that would reduce
17 or eliminate the behaviors that lead to children being isolated and that often result in long-term
18 isolation.

19 3.110 King County's on-going use of isolation has physically and psychologically
20 injured many children and poses a substantial risk of serious harm to all children held at the RJC.

21 3.111 These injuries will continue absent court intervention.

1 ***Facts Showing That King County Is Aware That Isolation Is Harmful To Children But***
2 ***Does It Anyway.***

3 3.112 King County has acknowledged that isolation harms children and has been
4 informed about the injuries it is causing children by isolating them.

5 3.113 One of King County's current policies regarding the use of isolation at the RJC
6 states that an "Inmate-patient[] under the age of 19" is a "contraindication" for the use of
7 isolation.

8 3.114 King County also operates a juvenile detention facility on First Hill in Seattle that
9 houses children under the age of 18.

10 3.115 By policy and practice, King County does not utilize long-term isolation against
11 children held at the juvenile detention facility.

12 3.116 Unlike at the RJC, at the juvenile detention facility, King County does not utilize
13 isolation as a form of discipline.

14 3.117 Multiple stakeholders, family members, children and other concerned individuals
15 have asked King County to treat the children held at the RJC as it treats the children held at the
16 juvenile detention center by not isolating them and by providing them with appropriate housing
17 options and additional programming opportunities. To date, King County has refused.

18 ***Facts Showing That King County's Practice Of Continuing To Isolate Children Causes***
19 ***Long-Lasting Harm And Has Been Rejected As Harmful And Counterproductive By***
20 ***Scientific Consensus And Accepted Correctional Standards.***

21 3.118 Defined by the National Commission on Correctional Health Care as "the housing
22 of an adult or juvenile with minimal to rare meaningful contact with other individuals," solitary
confinement or isolation can harm both adults and children.

1 3.119 However, children are especially susceptible to serious psychological harm when
2 they are isolated from other people because they are still developing psychologically,
3 neurologically, and socially.

4 3.120 Children in isolation face a significant risk of serious mental harm.

5 3.121 Isolation causes, perpetuates, and worsens mental health disorders, including but
6 not limited to post-traumatic stress disorders, psychosis, anxiety disorders, major depression,
7 hypervigilance, abnormal aggression, agitation, suicidal ideation, suicidal intent, self-mutilation,
8 and suicidal behavior.

9 3.122 Isolation can lead to chronic conditions like depression, which, in teenagers, can
10 manifest as anger or as self-harm.

11 3.123 Research shows that almost all suicides within juvenile correctional facilities
12 occur when the child is in some type of isolation.

13 3.124 Isolation can have lingering effects. Children who experience depression and
14 anxiety in their teenage years as a result of isolation are at a higher risk of presenting with these
15 diagnoses again.

16 3.125 Isolating children can also bring on paranoia, anger, and mistrust of adults or
17 authority figures. Unlikely to trust others, children emerging from isolation have trouble forming
18 the therapeutic relationships necessary to address the mental health concerns resulting from
19 solitary confinement.

20 3.126 Medical research on adolescent brains explains why children are more vulnerable
21 to the harms caused by isolation. In the adolescent brain, the connections between the frontal
22 lobe and the mid-brain have not fully developed. The severe physical or psychological trauma

1 brought on by isolation can cause permanent changes in the brain and increase the risk of
2 developing permanent psychiatric conditions.

3 3.127 The risk of harm from isolation is made worse by the disproportionately high
4 incidence of preexisting trauma and mental health disorders among children in the criminal
5 justice system. Research shows that over 60% of the youth in correctional settings have an
6 underlying major mental illness. Stress from isolation can compound past trauma and exacerbate
7 mental illnesses and disabilities. Trauma from social isolation will be more long-lasting for those
8 with mental illnesses or disabilities than for those without.

9 3.128 Isolating children is also counterproductive, because it does not reduce future
10 misbehavior. In fact, psychological research has shown the opposite: placing children in solitary
11 confinement can exacerbate the agitation and behavior that led to discipline in the first place.

12 3.129 In Ohio, the state Department of Youth Services' ("DYS") analysis of five years
13 of data showed that as the rate of solitary confinement increased, so did acts of violence—and
14 that when DYS cut its use of isolation for children it saw a dramatic reduction in the level of
15 violence within its juvenile facilities. Based upon this analysis, Ohio DYS concluded that
16 isolation "does not prevent violence or reduce assaults on staff and youths; instead . . . it actually
17 increases violence."

18 3.130 Because it is harmful and counterproductive, the American Medical Association,
19 the American Academy of Child and Adolescent Psychiatry, the American Correctional
20 Association and the National Commission on Correctional Health Care have all called for the
21 abolition of isolation against children.

22 3.131 The National Commission on Correctional Health Care, for example, issued a

1 statement articulating their position that children should not be placed in solitary confinement for
2 any duration and highlighted children’ particular vulnerability to adverse reactions from
3 isolation.

4 3.132 The American Correctional Association has issued draft standards that prohibit
5 the use of long-term isolation against children.

6 3.133 Similarly, organizations dedicated to the welfare of children, such as the Children
7 Detention Alternatives Initiative and the Performance- based Standards Learning Institute, have
8 also adopted standards that call for the elimination of isolation for children.

9 3.134 The World Health Organization, the United Nations, and other international
10 bodies have also recognized that isolation is harmful to a child’s psychological well-being and
11 cognitive development and must be ended.

12 3.135 The U.N. has repeatedly condemned the isolation of children, calling it torture.

13 3.136 Because of the undisputed scientific evidence, the United States Justice
14 Department (“DOJ”) recommended the abolition of the isolation for children.

15 3.137 Based on the DOJ recommendation, the scientific consensus, and the appreciation
16 of the harms isolation inflicts on children, the use of solitary confinement against children was
17 banned in all federal prisons.

18 3.138 Similarly, many states, counties and localities have banned the use of isolation
19 against children.

20 3.139 King County’s practice of isolating children is out of step with the science and
21 generally accepted correctional standards because it is harmful to children and
22 counterproductive.

1 ***Facts Showing That No Child Held At The RJC Receives An Adequate Education.***

2 3.140 Children held at the RJC have a constitutional right to an appropriate and
3 adequate education.

4 3.141 King County has an obligation to ensure that all of the children under its care
5 receive adequate educational services, including appropriate special educational services.

6 3.142 Only a single instructor is provided to all the children at the RJC.

7 3.143 This one instructor provides services to children housed in three separate housing
8 pods.

9 3.144 Because the instructor does not see all of the children in each pod simultaneously,
10 he or she must severely limit his or her teaching to be able to travel between all of the pods, meet
11 with the groups, and the individuals in isolation all within the 7 hour work day.

12 3.145 Some days the instructor does not come at all, without explanation or warning.

13 3.146 In the two general housing pods, the person provides groups of children no more
14 than an hour of instruction a day.

15 3.147 Generally, the hour involves 10 or 20 minutes of discussion on only a single topic,
16 followed by individual, solitary work by the children on work sheets.

17 3.148 Often the work sheets are too difficult or too easy for the individual child.

18 3.149 All children, regardless of age, grade level or comprehension, receive the same
19 assignments and work packets.

20 3.150 Children are not tested and receive no evaluations of the work that they complete.

21 3.151 Children at the RJC receive no educational services during the summer, holiday
22 breaks, or on weekends.

1 3.152 Children received no educational services for the first several weeks of this school
2 year because no instructor was available.

3 3.153 The federal Individuals with Disabilities in Education Act (IDEA) requires that
4 eligible students receive special education services.

5 3.154 King County has an obligation to ensure that children under their care receive
6 special educational services for which they are eligible.

7 3.155 Many of the children held at the RJC are eligible to receive special education
8 services.

9 3.156 Many of them have existing Individual Educational Plans (IEPs) that were created
10 by their home school districts before they were incarcerated.

11 3.157 IEPs are plans that all schools must create in collaboration with eligible students,
12 their parents, and school staff to address the special educational needs of students living with
13 disabilities.

14 3.158 King County neither provides appropriate special educational services to the
15 children at the RJC nor ensures that they receive them.

16 ***Facts Showing That Children In Isolation Are Denied An Education Without Due***
17 ***Process Of Law.***

18 3.159 As detailed above, the educational services provided to all of the children at the
19 RJC are constitutionally inadequate. However, those services provided to children held in
20 isolation are particularly troubling.

21 3.160 Children in isolation receive even fewer educational resources and less face-to-
22 face time with an instructor than students in the general population pods.

1 3.161 At most, children in isolation receive a few minutes of time per day with an
2 instructor. They are then left to do paper worksheets alone in their cells.

3 3.162 Even the few minutes of face-to-face instruction occur through the closed and
4 locked steel cell door.

5 3.163 King County prohibits the children in isolation from participating in the limited
6 group instruction given to children in the general population pods.

7 3.164 It is King County's policy and practice to severely limit educational services
8 solely because a child is placed in isolation.

9 3.165 King County does not give the children in isolation notice or an opportunity to be
10 heard before it denies them the limited educational services provided to those in general
11 population or at any point thereafter.

12 3.166 It refuses to provide notice or an opportunity to be heard even though the reason
13 for isolating the child may have nothing to do with his or her participation in educational
14 activities.

15 3.167 King County does not evaluate how isolating children will impact their schooling
16 or academic progress.

17 3.168 King County does not allow a child or a parent to explain why isolation and the
18 corresponding denial of educational services will harm the child.

19 3.169 Children receive no notice when placed in isolation that it will result in a denial of
20 educational instruction or that they will be cut off from their regular class work.

21 3.170 Children placed in isolation receive no hearing at which they can challenge the
22 denial of educational services as a result of their placement in isolation.

1 3.171 There is no process for reviewing the denial of educational services.

2 3.172 King County makes no effort to inform parents about their children or about the
3 educational services to which their children are entitled.

4 ***Facts Showing That King County's Illegal Policies, Practices And Omissions Will***
5 ***Continue To Cause Harm Until This Court Orders It To Stop Isolating Children And***
6 ***To Provide Them With An Adequate Education.***

7 3.173 By and large the children locked up at the RJC are there because of operation of
8 the "auto-decline" law. *See* RCW 13.04.030(1)(e)(v).

9 3.174 The "auto-decline" law gives prosecutors unbridled power to decide which child
10 is sent to the adult system and which one remains in the juvenile system.

11 3.175 The "auto-decline" law prohibits any judge from stepping in and sending a child
12 back to the juvenile system, no matter the circumstances.

13 3.176 Only prosecutors get to decide who will be tried as an adult.

14 3.177 King County has argued in court that judges adjudicating individual criminal
15 matters regarding children charged as adults do not have jurisdiction to order children removed
16 from isolation or that they be provided appropriate educations.

17 3.178 King County has taken the position that the only way to properly challenge its
18 isolation of children and the inadequate education they receive is through a civil action like this
19 one.

20 3.179 A large percentage of the children that King County charges as adults and holds at
21 the RJC will eventually plead guilty to juvenile charges and accept juvenile sentences that are
22 longer than what they would have received if they had never been charged as adults.

3.180 As discussed herein, children subject to isolation and the hardships of living at the

1 RJC regularly accept plea deals because they want to be moved to more humane facilities, not be
2 isolated for weeks on end, have more regular contact with family, and receive some semblance
3 of a proper education.

4 3.181 Prosecutors use the “auto-decline” law to coerce children into accepting longer
5 criminal sentences than they would get without the threat of long sentences in the adult system.

6 3.182 As detailed above, the vast majority of children charged as adults are children of
7 color.

8 3.183 A disproportionate number (86%) of children that King County charged as adults
9 in 2016 are children of color.

10 3.184 Every child that King County charged as an adult in 2015 was a child of color.

11 3.185 King County is also moving forward with building a new jail in which it plans to
12 incarcerate children for the next 50 years.

13 3.186 It is doing so even though its own experts in a recently released report say that the
14 County’s plans for the new children’s jail do not meet best practices. *See*, Eric Trupin and Mara
15 Lucia Puertolas, Working to Reduce the Use of Secure Confinement – A Review of King
16 County’s Children and Family Justice Center, (August 17, 2017), found at:
17 [http://www.kingcounty.gov/elected/executive/constantine/news/release/2017/September/15-](http://www.kingcounty.gov/elected/executive/constantine/news/release/2017/September/15-trupin-CFJC.aspx)
18 [trupin-CFJC.aspx](http://www.kingcounty.gov/elected/executive/constantine/news/release/2017/September/15-trupin-CFJC.aspx).

19 3.187 This report, commissioned by King County states, “the incorporation of
20 mezzanines (pods) reminiscent of adult-correctional facilities totaling a large bed count (112)
21 runs contrary to best practices.”

22 3.188 Furthermore, the report notes that “[t]he progress of the CFJC project places clear

1 constraints on the structure of the review and on the degrees of freedom of many of the
2 architectural recommendations, in particular as it relates to bed count and living unit
3 configurations.”

4 3.189 As detailed in the report, affected King County employees condemned King
5 County’s plans for the new jail as problematic and ill-conceived:

6 The facilities team for example, in attempts to improve the system from within,
7 referenced design elements that they had put forth as instrumental to improving
8 the day to day experience of youth in detention but that had been factored out of
9 the final design...Their frustrations stemmed from working with a design team
10 that had expertise in building adult correctional facilities before consultants with
11 more progressive juvenile treatment backgrounds were brought on, and because
12 of their perception that the courthouse portion of the facility was prioritized while
13 many innovations to the detention section were identified as too costly.

14 3.190 As its own experts note, in designing the new children’s jail King County ignored
15 its own employee’s suggestions and prioritized courtrooms over humane living conditions for
16 children.

17 3.191 Furthermore, King County is intent on building the jail even though Division II of
18 the Washington State Court of Appeals has ruled that the levy upon which King County relies to
19 fund the project is illegal. *See End Prison Indus. Complex v. King Cty.*, No. 49453-1-II, 2017
20 Wash. App. LEXIS 2220 (Div II Sep. 26, 2017).

21 3.192 In recent court filings, King County has stated that even if it cannot rely on the
22 levy funds it will take two hundred million dollars from some other part of its budget to ensure it
builds its jail, two hundred million dollars that would otherwise go to human services,
homelessness prevention programs, or environmental protection efforts.

3.193 King County has pledged hundreds of millions in public dollars to build an

1 unnecessary and harmful children's jail, but is unwilling to provide the funding necessary to give
2 the children at the RJC an appropriate education or to find them appropriate, humane housing
3 options that do not require them to be isolated for weeks and months on end.

4 3.194 King County will continue to isolate children and fail to properly educate them
5 until this Court orders King County to meet its legal obligations to the children under its care.

6 **IV. FACTS REGARDING INDIVIDUAL PLAINTIFFS**

7 **Facts relating to Plaintiff D.B.**

8 4.1 Plaintiff, D.B., entered the R.J.C. in March 2017.

9 4.2 D.B. is an African-American minor under the age of 18.

10 4.3 D.B. was placed in isolation on May 28, 2017.

11 4.4 He was sentenced to ten days of isolation after a disciplinary hearing.

12 4.5 At the end of the ten days he was not released from isolation.

13 4.6 Though he asked, no one explained to him why he remained in isolation.

14 4.7 King County held him in isolation for almost two months without explaining why.

15 4.8 After being released, D.B. was placed in isolation again on August 11, 2017.

16 4.9 He has been there ever since.

17 4.10 He has been told he is in isolation because he cannot be in the same pod with
18 another child and there is nowhere else to hold him at the RJC.

19 4.11 While in isolation, D.B. is out of his cell no more than an hour a day.

20 4.12 During stretches of days in September, D.B. was given only 15 minutes of out of
21 cell time every 3 days.

22 4.13 Correctional officers take D.B.'s out of cell time for minor misbehaviors or

1 because other children in the children's isolation unit are misbehaving.

2 4.14 Currently, D.B. is only being allowed out of his cell for a single hour every three
3 days. He is locked up in his cell alone with little to do for 71 of every 72 hours.

4 4.15 D.B. has also been denied an adequate education.

5 4.16 He currently receives only a few minutes of face-to-face instruction Monday
6 through Friday.

7 4.17 The worksheets that he is provided are not appropriate for his educational level or
8 his particular educational needs.

9 4.18 He receives no feedback or evaluations of his work.

10 4.19 He is not tested on his competency or understanding of the subject matter.

11 4.20 D.B. has received special education services in the past.

12 4.21 D.B. is currently eligible to receive special educational services and is in need of
13 such services.

14 4.22 D.B. has an Individualized Educational Plan (IEP) or is in need of such a plan.

15 4.23 King County does not provide D.B. with the special education services he needs
16 or ensure that he receives them.

17 4.24 King County has not engaged with D.B.'s mother regarding D.B.'s educational
18 needs, his IEP, or his eligibility for special educational services.

19 4.25 King County has failed to provide D.B. or his mother with notice of his rights to
20 receive special educational services.

21 4.26 D.B. was not provided notice that he would lose educational services as a result of
22 being placed in isolation and did not receive a hearing to contest the loss of educational services

1 as a result of being placed in isolation.

2 **The Facts relating to Plaintiff C.S.**

3 4.27 Plaintiff C.S. entered the RJC in April 2017.

4 4.28 C.S. is a white person who was child under the age of 18 when this lawsuit was
5 begun.

6 4.29 King County jail staff placed him in isolation in early August.

7 4.30 C.S. has been in isolation since that date and remains in isolation today.

8 4.31 Since August 2017, he has been locked alone in his cell for at least 23 hours a
9 day.

10 4.32 He has been denied any time out of his cell on a number of occasions, meaning
11 that he often remains alone in his cell for 47 or more straight hours.

12 4.33 Recently he was prescribed mental health medications because he is clinically
13 depressed.

14 4.34 Though King County charged him as an adult and kept him in the RJC for many
15 months, C.S. has now plead guilty to a juvenile charge and will serve his juvenile sentence in a
16 juvenile correctional facility. He will be released within three years.

17 4.35 C.S. has also been denied an adequate education.

18 4.36 He currently receives only a few minutes of face-to-face instruction Monday
19 through Friday.

20 4.37 The worksheets that he is provided are not appropriate for his educational level or
21 his particular educational needs.

22 4.38 He receives no feedback or evaluations of his work.

1 4.39 He is not tested on his competency or understanding of the subject matter.

2 4.40 C.S. has received special education services in the past.

3 4.41 C.S. is currently eligible to receive special educational services and is in need of
4 such services.

5 4.42 C.S. has an Individualized Educational Plan (IEP) or is in need of such a plan.

6 4.43 King County has not provided C.S. with the special education services he needs
7 or ensured that he receives them.

8 4.44 King County has not engaged with C.S.'s mother regarding C.S.'s educational
9 needs, his IEP, or his eligibility for special educational services.

10 4.45 King County has failed to provide C.S. or his mother with notice of his rights to
11 receive special educational services.

12 4.46 C.S. was not provided notice that he would lose educational services as a result of
13 being placed in isolation and did not receive a hearing to contest the loss of educational services
14 as a result of being placed in isolation.

15 **The Facts Relating To Plaintiff J.R.**

16 4.47 Plaintiff, J.R., entered the RJC in August 2017.

17 4.48 J.R., is an African-American child under the age of 18.

18 4.49 King County placed J.R. in isolation on August 21, 2017.

19 4.50 In September, while in isolation, King County took away his hour out for a
20 number of days because he was accused of having written on the walls of his cell and refused to
21 clean it up.

22 4.51 On other occasions in September he was only allowed out of his cell for 15

1 minutes every three days.

2 4.52 After being in isolation for about a month and being limited to only 15 minutes
3 out of his cell every three days, King County sent J.R. to the King County Jail because it
4 believed that he might be suicidal.

5 4.53 King County did not remove him from isolation even though it was concerned
6 that he might be suicidal.

7 4.54 Currently, J.R. is only being allowed out of his cell for a single hour every three
8 days. He is locked up in his cell alone with little to do for 71 of every 72 hours.

9 4.55 J.R. has also been denied an adequate education.

10 4.56 He currently receives only a few minutes of face-to-face instruction Monday
11 through Friday.

12 4.57 The worksheets that he is provided are not appropriate for his educational level or
13 his particular educational needs.

14 4.58 He receives no feedback or evaluations of his work.

15 4.59 He is not tested on his competency or understanding of the subject matter.

16 4.60 J.R. has received special education services in the past.

17 4.61 J.R. is currently eligible to receive special educational services and is in need of
18 such services.

19 4.62 J.R. has an Individualized Educational Plan (IEP) or is in need of such a plan.

20 4.63 King County does not provide J.R. with the special education services he needs or
21 ensure that he receives them.

22 4.64 King County has not engaged with J.R.'s mother regarding J.R.'s educational

1 needs, his IEP, or his eligibility for special educational services.

2 4.65 King County has failed to provide J.R. or his mother with notice of his rights to
3 receive special educational services.

4 4.66 J.R. was not provided notice that he would lose educational services as a result of
5 being placed in isolation and did not receive a hearing to contest the loss of educational services
6 as a result of being placed in isolation.

7 **The Facts Relating To Plaintiff K.C.**

8 4.67 Plaintiff K.C. entered the RJC in August 2017.

9 4.68 K.C. is an African American child who is under the age of 18.

10 4.69 King County placed K.C. in isolation soon after he arrived at the RJC.

11 4.70 When he was placed in isolation, he was not given any reason to explain why he
12 was there.

13 4.71 After being in isolation for a few days, he was given an infraction for being noisy
14 at night. He received 5 days isolation for that infraction, even though he was already in isolation.

15 4.72 K.C. remains in isolation today.

16 4.73 For periods of time in September he was kept in isolation and only allowed out of
17 his cell for 15 minutes every three days.

18 4.74 Otherwise he has only received at most an hour of out of cell time a day.

19 4.75 K.C. has also been denied an adequate education.

20 4.76 He currently receives only a few minutes of face-to-face instruction Monday
21 through Friday.

22 4.77 The worksheets that he is provided are not appropriate for his educational level or

1 his particular educational needs.

2 4.78 He receives no feedback or evaluations of his work.

3 4.79 He is not tested on his competency or understanding of the subject matter.

4 4.80 K.C. has received special education services in the past.

5 4.81 K.C. is currently eligible to receive special educational services and is in need of
6 such services.

7 4.82 K.C. has an Individualized Educational Plan (IEP) or is in need of such a plan.

8 4.83 King County does not provide K.C. with the special education services he needs
9 or ensure that he receives them.

10 4.84 King County has not engaged with K.C.'s parents or guardian regarding his
11 educational needs, his IEP, or his eligibility for special educational services.

12 4.85 King County has failed to provide K.C. or his parents or guardian with notice of
13 his rights to receive special educational services.

14 4.86 K.C. was not provided notice that he would lose educational services as a result of
15 being placed in isolation and did not receive a hearing to contest the loss of educational services
16 as a result of being placed in isolation.

17 **V. CLASS ALLEGATIONS**

18 5.1 Plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules
19 of Civil Procedure, and seeks declaratory and injunctive relief on behalf of a class of:

20 All people under the age of 18 who are currently incarcerated at the Maleng
21 Regional Justice Center or King County Jail or who will be incarcerated in either
22 facility at any time in the future.

1 5.2 Plaintiffs also seek declaratory and injunctive relief on behalf of a subclass
2 of:

3 All people under the age of 18 who are currently incarcerated at the Maleng
4 Regional Justice Center or will be incarcerated there at any time in the future and
5 are children with disabilities, as defined by the Individuals with Disabilities
6 Education Act, and are in need of special education and related services (“IDEA
7 Subclass”).

8 5.3 All class and subclass members face a substantial risk of serious harm as a result
9 of King County’s use of isolation and King County’s denial of an appropriate and adequate
10 education.

11 5.4 The facts and claims meet the requirements of Fed. R. Civ. P. 23(a).

12 5.5 *Numerosity:* Joinder of all class and subclass members is impracticable because of
13 the size of the class and subclass and the characteristics of the class members. At any given time,
14 all of the children incarcerated at the RJC are at a significant risk of unconstitutional isolation
15 and each is denied an appropriate education. Every month, additional class and subclass
16 members cycle in and out of the RJC and King County Jail. Many of these children are unable to
17 file lawsuits on their own because of their youth, disabilities, and lack of financial resources.

18 5.6 *Commonality:* There are questions of law and fact common to all members of the
19 class and subclass, including but not limited to: whether King County’s policies and practices of
20 placing children in isolation pose a substantial risk of serious harm to the Plaintiff Class and
21 IDEA Subclass and violate rights guaranteed them by the Eighth and Fourteenth Amendments to
22 the United States constitution and by Washington’s Constitution and laws; and whether the
23 Defendants have unlawfully denied educational services in violation of the class members’
24 Fourteenth Amendment rights, the Washington Constitution, the IDEA and applicable

1 Washington laws.

2 5.7 *Typicality*: The claims of the named Plaintiffs are typical of those of the class.

3 5.8 *Adequacy of Representation*: The named Plaintiffs, their representatives, and class
4 counsel will fairly and adequately represent the interests of the class. The named Plaintiffs and
5 their representatives have no interests in this matter that are antagonistic to other class members.
6 Class counsel have many years of experience in civil rights and class action litigation.

7 5.9 Class-wide declaratory and injunctive relief are appropriate under Rule 23(b)(2)
8 because King County has acted or refused to act on grounds generally applicable to the class as a
9 whole.

10 **VI. JURISDICTION AND VENUE**

11 6.1 This action arises under the Constitution and laws of the United States, including
12 42 U.S.C. § 1983 and the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1482.
13 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and
14 supplemental jurisdiction over the state law claims presented in this action pursuant to 28 U.S.C.
15 § 1367.

16 6.2 This Court has jurisdiction to issue the declaratory relief requested pursuant to the
17 Declaratory Relief Act, 28 U.S.C. §§ 2201 and 2202 and this Court may also grant injunctive
18 relief pursuant to Rule 65 of the Federal Rules of Civil Procedure and RCW 49.60.030(2).

19 6.3 This Court has authority to award costs and attorneys' fees under 42 U.S.C.
20 § 1988, 20 U.S.C. § 1415 and RCW 49.60.030(2).

21 6.4 Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
22 § 1391(b)(1) and (b)(2). King County is located in the Western District of Washington, and the

1 events and omissions giving rise to the claims in this action occurred in this district.

2 **VII. CLAIMS FOR RELIEF**

3 7.1 **First Claim:** By isolating children in the conditions described above, King
4 County has acted under color of state law and has violated and continues to violate the named
5 Plaintiffs' and putative class members' rights under the Eighth Amendment and Fourteenth
6 Amendment of the United States Constitution, which are actionable pursuant to 42 U.S.C.
7 § 1983.

8 7.2 **Second Claim:** By isolating children in the conditions described above, King
9 County has acted under color of state law and has violated and continues to violate the named
10 Plaintiffs' and putative class members' rights under Article I, section 14 of Washington's
11 Constitution.

12 7.3 **Third Claim:** By isolating children, King County has violated and continues to
13 violate its duty to protect and maintain the health, safety and welfare of the individual Plaintiffs
14 and the members of the Plaintiff class.

15 7.4 **Fourth Claim:** By denying all children an appropriate and adequate education,
16 King County has acted under color of state law and violated and continues to violate the rights of
17 the Plaintiffs and the rights of putative class members under Article IX of the Washington
18 Constitution.

19 7.5 **Fifth Claim:** By denying special educational services and resources to children
20 held at the RJC, King County acted under color of state law and has violated and continues to
21 violate the rights of named Plaintiffs and the rights of the putative IDEA Subclass's members
22 under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

1 practices described in this Complaint.

2 8.4 Appoint a Special Master pursuant to Fed. R. Civ. P. 53 to oversee King County's
3 compliance with any orders the Court will issue in the future. Order King County to provide all
4 appropriate and necessary funds to compensate the Special Master for his or her duties.

5 8.5 Retain jurisdiction of this case until such time as King County has fully complied
6 with all orders of the Court or Special Master, and there is reasonable assurance that King
7 County will continue to comply in the future with these orders.

8 8.6 Award Plaintiffs, the Plaintiff Class and the IDEA Subclass their reasonable
9 attorneys' fees and costs pursuant to 42 U.S.C. § 1988, 20 U.S.C. § 1415, RCW 49.60.030(2)
10 and any other applicable statute or court rule.

11 8.7 Award Plaintiffs appropriate incentive payments.

12 8.8 Award Plaintiffs, the Plaintiff Class and the IDEA Subclass such other and further
13 relief as justice may require.

14 Respectfully submitted this 23rd day of October, 2017.

15 ATTORNEYS FOR PLAINTIFFS

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