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14 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**

16 DAVID PORTER and CANDACE
17 WATERS,

18 Plaintiffs,

19 v.

20 VERNON SPEIRS, Chief Probation Officer
21 of Sacramento County,

22 Defendant.

Case No.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

23
24 Plaintiffs DAVID PORTER and CANDACE WATERS hereby bring this taxpayer
25 action for injunctive and declaratory relief pursuant to California Code of Civil Procedure
26 sections 525, 526a and 1060, directed to Defendant VERNON SPEIRS, and by this
27 complaint alleges as follows:
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JURISDICTION

1. This Court has jurisdiction to grant injunctive relief on behalf of Plaintiffs pursuant to Code of Civil Procedure sections 525 and 526.

2. This Court has jurisdiction to grant declaratory relief on behalf of Plaintiffs pursuant to Code of Civil Procedure section 1060.

PARTIES

A. Plaintiffs

3. Plaintiff DAVID PORTER is a citizen of California and a resident of Sacramento in Sacramento County. He has paid taxes to the State of California within one year of the commencement of this action and has paid sales and property taxes to the County of Sacramento within one year of the commencement of this action. As a taxpayer, Plaintiff David Porter has no administrative remedies to exhaust. He brings this action as a taxpayer, pursuant to Code of Civil Procedure section 526a, against the Chief Probation Officer of Sacramento County to enjoin the expenditure of funds to promulgate, administer, and enforce illegal policies, practices and procedures in the Sacramento County Juvenile Halls.

4. Plaintiff CANDACE WATERS is a citizen of California and a resident of Sacramento in Sacramento County. She has paid taxes to the State of California within one year of the commencement of this action and has paid sales tax in Sacramento County within one year of the commencement of this action. As a taxpayer, Plaintiff Candace Waters has no administrative remedies to exhaust. She brings this action as a taxpayer, pursuant to Code of Civil Procedure section 526a, against the Chief Probation Officer of Sacramento County to enjoin the expenditure of funds to promulgate, administer, and enforce illegal policies, practices and procedures in the Sacramento County Juvenile Halls.

1 Excessive Force

2 11. Youth in the Sacramento County Juvenile Halls are subjected to the
3 frequent use of a practice known as "dipping," in which staff twist a youth's arm behind
4 his or her back, flip the youth face down on the floor or ground, and place a knee in his
5 or her back or head. Frequently, the minor's face is rubbed into the ground, drawing
6 blood from their lips, chins, or noses. Many youth have scars received from dipping.
7 Youth are dipped for disciplinary and punitive purposes, including talking back to staff
8 and failing to maintain proper hand position (interlocked fingers).

9 12. Defendant has no adequate or appropriate means to regulate or control staff
10 use of force to prevent such abuses.

11 13. Minors are also subjected to the frequent use of pepper spray as a means of
12 behavior control or punishment. They are sprayed with chemical agents for fighting and
13 also for offenses such as talking back to staff, often without warning. One youth was
14 lying face down on the ground when a staff member lifted his head up by the hair and
15 sprayed him in the face with pepper spray. A girl was pepper sprayed because she was
16 crying and could not hear staff commands to stop crying.

17 14. Defendant's staff commit other physical abuse as well. One minor has had
18 his genitalia grabbed and twisted by a staff member. Youth are kicked in the head by
19 staff when they lie face down on the ground after a fight has been broken up.

20 Verbal and Emotional Abuse

21 15. Verbal harassment and abuse is an everyday occurrence in the Juvenile
22 Halls. Staff taunt minors cruelly (for example, saying that they will be going to adult
23 prison or calling them "retarded") and use sexual language to disparage them (such as
24 calling them "bitch" or "punk" for the boys).
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1 16. Staff discipline youth inappropriately (“take points”) for looking to one
2 side or the other when they are supposed to be watching television. The youth are
3 instructed to look straight ahead at the television set at all times. One probation officer
4 recently chastised a youth for walking alongside a row of attorney visiting rooms and
5 simply glancing inside them as he moved past (he had been instructed by his public
6 defender to find her after he was done with his interview with plaintiffs’ counsel). He
7 was told by the staff member, "don't you look inside those rooms," as if merely looking
8 to one side were a rules violation.

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10 Denial of Basic Needs

11 17. The Sacramento County Juvenile Halls have been operating under
12 dangerously overcrowded conditions for more than a decade in violation of state
13 minimum standards. The Halls are currently excessively and illegally crowded, resulting
14 in denials of the basic needs of the young people housed there.

15 18. Youth at the Sacramento Halls do not get enough to eat. Teenagers,
16 including pregnant girls, consistently describe being hungry while in Defendant’s
17 custody. Youth are served dinner at 4 p.m. and then a small snack, such as an apple, at 7
18 p.m. They are given nothing else to eat until breakfast the next morning. Thus, for
19 approximately fourteen hours, they only have an apple to eat. Moreover, the food is
20 often difficult to eat because it is so unappetizing, often cold and undercooked.

21 19. The Sacramento Juvenile Halls are filthy, especially the receiving rooms.
22 Many rooms are dirty and smelly and infested with insects. There are stains on the walls
23 from blood, spit, urine, feces, and unidentified substances.

24 20. Many youth are housed in dry rooms, where they sometimes have to wait
25 several hours for staff to respond to their calls to use the toilet.

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1 Education and Programming Deficits

2 21. No youth are allowed writing materials in their rooms. They cannot write
3 letters or do schoolwork or draw pictures in their rooms.

4 22. Many youth who have received special education services before coming to
5 the Hall do not receive such services inside the Hall.

6 23. Youth who have children of their own are not allowed to see them during
7 visiting hours.

8 Lack of Education and Programming in H and J Units

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10 24. In H and J units, which are essentially lock-up units, minors receive less
11 than the legally mandated four hours of school per day. A typical day in these units is
12 one hour of school and one hour of outside recreation per day. Except for brief showers,
13 the minors spend all of the rest of their time in their rooms. Only those minors who have
14 achieved a higher behavioral level are allowed to eat breakfast outside of their rooms.

15 25. The minors in H and J receive no homework. Pens and pencils are not
16 allowed in their rooms. Those minors who want to pursue their education beyond one
17 hour a day cannot do so.

18 26. Youth housed for many months in J unit deteriorate under the isolation and
19 punitive conditions. Instead of being rehabilitated in any way, they become listless and
20 despondent.

21 **FIRST CAUSE OF ACTION: ILLEGAL ENDANGERMENT OF PHYSICAL**
22 **SAFETY**

23 27. Plaintiffs reallege and incorporate by reference all of the allegations
24 contained in paragraphs 1-26, inclusive, as though they were fully here set forth.

25 28. Defendant Speirs uses public funds, in violation of Code of Civil
26 Procedure §526a, to confine juveniles in unlawful conditions that put their physical
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1 safety at unreasonable risk of harm. Defendant's illegal actions, which result in the
2 illegal conditions, include but are not limited to the following:

3 (a) the illegal failure to provide juveniles a safe and supportive homelike
4 environment (see, for example, paragraphs 11-14 above), in violation of Cal. Wel. &
5 Inst. Code §851;

6 (b) the illegal use of excessive force against juveniles (see, for example,
7 paragraph 11-14 above), in violation of Cal. Code of Regs. tit. 15 §§1357 (restrictions on
8 use of force in juvenile halls) and 1390 ("Discipline shall not include corporal
9 punishment"); Cal. Const. art. I §§1 (right to enjoy life, liberty and safety), 7 (right to due
10 process), 17 (no cruel or unusual punishment); and

11 (c) the illegal, punitive use of physical and/or chemical restraints against juveniles
12 (see, for example, paragraph 13 above), in violation of Cal. Code of Regs. tit. 15
13 §§1358(b) (use of restraints allowed in juvenile halls only if less restrictive alternatives
14 are ineffective), 1358(d) ("In no case shall restraints be used as punishment or discipline,
15 or as a substitute for treatment"), 1357 (restrictions on use of force in juvenile halls),
16 1390 ("Discipline shall not include corporate punishment"); Cal. Const. art. I §§1 (right
17 to enjoy life, liberty and safety), 7 (right to due process), 17 (no cruel or unusual
18 punishment).

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20 **SECOND CAUSE OF ACTION: MENTAL AND EMOTIONAL ABUSE**

21 29. Plaintiffs reallege and incorporate by reference all of the allegations
22 contained in paragraphs 1-26, inclusive, as though they were full here set forth.

23 30. Defendant Speirs uses public funds, in violation of Code of Civil
24 Procedure §526a, to confine juveniles in unlawful living conditions. Defendant's illegal
25 actions, which result in the illegal conditions, include but are not limited to the
26 following:
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1 (a) the illegal failure to provide juveniles a safe and supportive homelike
2 environment (see, for example, paragraphs 15-16 above), in violation of Cal. Wel. &
3 Inst. Code §851;

4 (b) the illegal use of verbal or emotional abuse against juveniles (see, for example,
5 paragraphs 15-16 above), in violation of Cal. Code of Regs. tit. 15 §1390 (“[d]iscipline
6 shall not include... psychological degradation”); Cal. Penal Code § 673 (“It shall be
7 unlawful to use in the reformatories, institutions, ... or any other... county... institution
8 any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of
9 care whatever which would injure or impair the health of the... person confined”); Cal.
10 Const. art. I §§1 (right to enjoy life, liberty and safety), 7 (right to due process), 17 (no
11 cruel or unusual punishment).

12 **THIRD CAUSE OF ACTION: ILLEGAL LIVING CONDITIONS**

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14 31. Plaintiffs reallege and incorporate by reference all of the allegations
15 contained in paragraphs 1-26, inclusive, as though they were full here set forth.

16 32. Defendant Speirs uses public funds, in violation of Code of Civil
17 Procedure §526a, to confine juveniles in unlawful living conditions. Defendant's illegal
18 actions, which result in the illegal conditions, include but are not limited to the
19 following:

20 (a) the illegal failure to provide juveniles a safe and supportive homelike
21 environment (see, for example, paragraphs 17-20 above), in violation of Cal. Wel. &
22 Inst. Code §851;

23 (b) the illegal failure to provide adequate food to juveniles (see, for example,
24 paragraph 18 above), in violation of Cal. Code of Regs. tit 15 §§1460-67 (nutritionally
25 adequate and acceptable diet required); Cal. Const. art. I §§1 (right to enjoy life, liberty
26 and safety), 17 (no cruel or unusual punishment);
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1 (c) the illegal failure to comply with maximum-capacity restrictions on the
2 Juvenile Halls (see, for example, paragraph 17 above), in violation of Cal. Code of Regs.
3 tit. 15 §1343 (maximum capacity restrictions for juvenile halls); Cal. Const. art. I §§1
4 (right to enjoy life, liberty and safety) and 17 (no cruel or unusual punishment);

5 (d) the illegal denial of access to toilets (see, for example, paragraph 20 above), in
6 violation of Cal. Code of Regs. tit. 15 §1390(b) (discipline shall not include deprivation
7 of access to “toilet” or “clean and sanitary living conditions”); Cal. Const. art. I §§1
8 (right to life, liberty and safety), 17 (no cruel or unusual punishment); and

9 (e) the illegal failure to provide clean and sanitary living conditions for juveniles
10 (see, for example, paragraph 19 above), in violation of 15 Cal. Code of Regs. tit. 15
11 §§1510 (requirements for clean and sanitary living conditions in juvenile halls), 1390
12 (“Discipline shall not include...deprivation of...clean and sanitary conditions”); Cal.
13 Const. art I. §§1 (right to enjoy life, liberty and safety), 17 (no cruel or unusual
14 punishment).

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16 **THIRD CAUSE OF ACTION: ILLEGAL CONDITIONS IN SEGREGATION**
17 **UNIT**

18 33. Plaintiffs reallege and incorporate by reference all of the allegations
19 contained in paragraphs 1-26, inclusive, as though they were full here set forth.

20 34. Defendant Speirs uses public funds, in violation of Code of Civil
21 Procedure §526a, to confine juveniles in unlawful conditions of segregation.
22 Defendant's illegal actions, which result in the unlawful conditions, include but are not
23 limited to the following:

24 (a) the illegal failure to provide juveniles a safe and supportive homelike
25 environment (see, for example, paragraphs 24-26 above), in violation of Cal. Wel. &
26 Inst. Code §851;

1 (b) the illegal denial of education, including but not limited to special education
2 and Individualized Education Plans, to juveniles housed in H and J Units (see, for
3 example, paragraphs 24-25 above), in violation of Cal. Code of Regs. tit. 15 §§1390(j)
4 ("Discipline shall not include...deprivation of...education"), 1370(d)(1) ("Educational
5 instruction shall be provided to minors restricted to high security or other special units."),
6 1370(b) ("Minors shall be provided a quality educational program"), 1370(b)(3) ("The
7 minimum school day shall be consistent with California Education Code Requirements
8 for juvenile court schools"), 1370(d) ("State and federal laws shall be observed for
9 individuals with special education needs."); Cal. Edu. Code §§46141 (minimum school
10 day is 240 minutes), 56150 ("Special education programs...shall be provided...in a
11 juvenile hall"), 56000 et seq. (special education programs required); Cal. Gov't. Code
12 §11135 (ban on disability discrimination); *Serrano v. Priest* (1977) 18 Cal. 3d 728 (right
13 to education); see also 20 U.S.C. §§1400 et seq., §1401(8), §1414(d)(1)(B); 34 C.F.R.
14 §§300.4, 300.340, 300.344; C-al Edu. Code §56341; *Board of Educ. v. Rowley* (1982)
15 458 U.S. 176, 180-82; and
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17 (c) the dangerous and illegal overuse of extreme isolation of juveniles in H and J
18 Units, including but not limited to wards with mental illnesses (see, for example,
19 paragraphs 24-26 above), in violation of Cal. Code of Regs. tit. 15 §§1390 (discipline in
20 juvenile halls "shall not include corporal punishment, physical or psychological
21 degradation"), 1356 (requirements for mental health services); Cal. Const. art. I §1
22 (right to enjoy life, liberty and safety), 17 (no cruel or unusual punishment);
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24 **FOURTH CAUSE OF ACTION: ILLEGAL FAILURE TO FULFILL DUTIES OF
EDUCATION AND REHABILITATION**

25 35. Plaintiffs reallege and incorporate by reference all of the allegations
26 contained in paragraphs 1-26, inclusive, as though they were fully here set forth.
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