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7
8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
11 TUREKO STRAUGHTER,
12 individually and as the guardian for
13 minor K.R.; and K.R, a minor, by and
through his guardian TUREKO
STRAUGHTER,

14 Plaintiffs,

15 vs.

16 CITY AND COUNTY OF SAN
FRANCISCO, SAN FRANCISCO
17 JUVENILE PROBATION
DEPARTMENT, CHIEF OF SAN
18 FRANCISCO JUVENILE
PROBATION DEPARTMENT
19 ALLEN NANCE, DEPUTY
PROBATION OFFICER SAMUEL
20 Nwigwe, DEPUTY PROBATION
OFFICER TONI POWELL, DEPUTY
21 PROBATION OFFICER ROGER
GAINNEY,
22 and DOES 1-30, inclusive.

23 Defendants.
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27
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Case No.:

COMPLAINT FOR DAMAGES
(42 U.S.C. Section 1983 and pendent tort claims)

DEMAND FOR JURY TRIAL

INTRODUCTION

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2 1. This case arises from the unlawful incarceration of K.R., an African-American teenage
3 boy, in San Francisco's juvenile hall. The San Francisco Juvenile Probation Department booked K.R.
4 into the county's locked juvenile facility on Thursday, June 29, 2017, overriding a risk assessment
5 indicating that he should be released. On Friday, June 30, a judge of the San Francisco Superior Court
6 ordered K.R.'s release. Officers of the Juvenile Probation Department received that court order, but
7 failed to release K.R. Instead, the Juvenile Probation Department held K.R. in custody until the
8 following Monday, July 3, when the judge again ordered him to be released.

9 2. As a result of the actions by the San Francisco Juvenile Probation Department, K.R. was
10 held against his will in a locked cell, deprived of his freedom, separated from the care and love of his
11 family, and subjected to the control of the custodial officers.

12 3. This civil rights and tort action seeks general, special, and punitive damages from
13 Defendants for violating Plaintiffs' rights under the United States Constitution and California state law.

JURISDICTION

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15 4. This action arises under 42 U.S.C. Section 1983. Jurisdiction is based on 28 U.S.C.
16 Sections 1331 and 1343.

17 5. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S. Section 1367
18 over the state law claims, which are so related to the federal claims in this action that they form part of
19 the same case or controversy under Article II of the United States Constitution.

VENUE/INTRADISTRICT ASSIGNMENT

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21 6. The claims alleged herein arose in the City and County of San Francisco, State of
22 California. Therefore, venue and assignment are in the United States District Court for the Northern
23 District of California, San Francisco or Oakland Divisions. 28 U.S.C. § 1391(b)(2); Civil L.R. 3-2(d).

PARTIES

A. Plaintiffs

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26 7. Plaintiff TUREKO STRAUGHTER is the mother of K.R. and at the time of the incident
27 alleged herein resided with K.R. and her two other sons in Oakland, California.

1 8. Plaintiff K.R. is an African-American minor who was fifteen years old at the time of the
2 incident alleged herein. He brings this action by and through his parent and guardian, Tureko Straughter.
3 He is identified in this lawsuit by his initials pursuant to Federal Rules of Civil Procedure 5.2(a)(3).

4 **B. Defendants**

5 9. Defendant CITY AND COUNTY OF SAN FRANCISCO is, and at all times herein
6 mentioned was, a municipal corporation duly organized and existing under the laws of the State of
7 California.

8 10. Defendant SAN FRANCISCO JUVENILE PROBATION DEPARTMENT is a
9 municipal department operated by and under the authority of Defendant CITY AND COUNTY OF SAN
10 FRANCISCO.

11 11. Defendant ALLEN NANCE is, and at all times relevant herein was, the Chief of the SAN
12 FRANCISCO JUVENILE PROBATION DEPARTMENT and, as such, was the policymaker for
13 Defendant CITY AND COUNTY OF SAN FRANCISCO on matters related to the SAN FRANCISCO
14 JUVENILE PROBATION DEPARTMENT. At all times herein mentioned, Defendant NANCE was
15 acting under color of law and within the scope of his employment with the Defendant CITY AND
16 COUNTY OF SAN FRANCISCO. Defendant NANCE is sued in his official and individual capacities.

17 12. Upon information and belief, Defendant SAM Nwigwe was at all times relevant herein
18 a deputy probation officer with the SAN FRANCISCO JUVENILE PROBATION DEPARTMENT for
19 the CITY AND COUNTY OF SAN FRANCISCO, and was acting under color of law and within the
20 scope of his employment with the Defendant CITY AND COUNTY OF SAN FRANCISCO. He is sued
21 in his individual capacity.

22 13. Upon information and belief, Defendant TONI POWELL was at all times relevant herein
23 a supervising probation officer with the SAN FRANCISCO JUVENILE PROBATION DEPARTMENT
24 for the CITY AND COUNTY OF SAN FRANCISCO, and was acting under color of law and within the
25 scope of her employment with the Defendant CITY AND COUNTY OF SAN FRANCISCO. She is
26 sued in her individual capacity.

27 14. Upon information and belief, Defendant ROGER GAINEY was at all times relevant
28 herein a supervising probation officer with the SAN FRANCISCO JUVENILE PROBATION

1 DEPARTMENT for the CITY AND COUNTY OF SAN FRANCISCO, and was acting under color of
2 law and within the scope of his employment with the Defendant CITY AND COUNTY OF SAN
3 FRANCISCO. He is sued in his individual capacity.

4 15. Defendants DOES 1 through 30 are persons or entities whose true names and capacities
5 are presently unknown to Plaintiffs, who therefore sue these Defendants by fictitious names. Plaintiffs
6 are informed and believe, and on that basis allege, that each of the DOE Defendants was an agent or
7 employee of one or more of the named Defendants, and was acting within the course and scope of said
8 agency or employment and under color of state law. Plaintiffs are further informed and believe, and
9 based thereon allege, that each of the DOE Defendants is legally responsible in some manner for the
10 occurrences herein alleged. All allegations in this Complaint that refer to the named Defendants refer in
11 like manner to those Defendants identified as DOES 1 through 30, inclusive. Plaintiffs will amend this
12 Complaint to allege the true names and capacities of the DOE Defendants when they have been
13 ascertained.

14 **ADMINISTRATIVE PREREQUISITES**

15 16. Plaintiffs each filed a claim with the City and County of San Francisco on November 29,
16 2017. The City and County of San Francisco denied both claims on January 10, 2018. Plaintiffs have
17 exhausted all administrative remedies pursuant to California Government Code Section 910.

18 **FACTUAL AND STATUTORY BACKGROUND**

19 **A. Statutory and Policy Framework for Pre-Trial Custody of Minors**

20 17. In California, when a minor is arrested and the arresting officer decides not to release the
21 minor, the officer delivers the minor to the probation officer of the county. Cal. Welf. & Inst. Code §
22 626(d).

23 18. Upon delivery of a minor, the probation officer must immediately investigate the
24 circumstances of the minor and the facts surrounding his or her being taken into custody. Cal. Welf. &
25 Inst. Code § 628(a)(1).

26 19. California law presumes that a minor shall be released pretrial, unless certain
27 circumstances are present. Specifically, Welfare and Institutions Code Section 628, subsection (a),
28 paragraph (1), states that the probation officer “*shall immediately release* the minor to the custody of his

1 or her parent, legal guardian, or responsible adult,” unless it can be demonstrated both that continuance
2 in the home is contrary to the minor’s welfare, and that one of the following three conditions exists: “(A)
3 Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the
4 minor or reasonable necessity for the protection of the person or property of another. (B) The minor is
5 likely to flee the jurisdiction of the court. (C) The minor has violated an order of the juvenile court.” *See*
6 *Cal. Welf. & Inst. Code § 628(a)(1)* (emphasis added).

7 20. A minor who is held in custody must be brought before a juvenile court judge for a
8 detention hearing before the end of the next judicial day after a petition is filed declaring the minor a
9 ward or dependent child. *Cal. Welf. & Inst. Code § 632*. Minors whose detention hearing will occur after
10 a weekend are entitled to a judicial determination of probable cause prior to the detention hearing. *See*
11 *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991) (holding that a probable cause determination
12 made within 48 hours of arrest complies with the Fourth Amendment); *In re Alfredo A.*, 6 Cal. 4th 1212,
13 1232 (holding that “juvenile arrestees” must be afforded a judicial determination of probable cause for
14 post-arrest detention that continues longer than 72 hours after arrest).

15 21. It is the duty of the probation officer to take charge of a minor as ordered by the juvenile
16 court. *Cal. Welf. & Inst. Code § 280*.

17 **B. Unlawful Incarceration of Minor K.R.**

18 22. On Thursday, June 29, 2017, minor K.R. was taken into police custody by officers of the
19 San Francisco Police Department on charges related to an auto burglary. Throughout the time period
20 relevant herein, the charges remained adjudicated.

21 23. Following his arrest on June 29, the police officers initially detained K.R. at the Northern
22 Station of the San Francisco Police Department. Upon information and belief, the officers contacted the
23 San Francisco Juvenile Probation Department (hereinafter “Juvenile Probation Department”). The
24 officers spoke to the on-duty officer, who told them that K.R. would be booked at the Juvenile Justice
25 Center, San Francisco’s locked juvenile custodial facility. The police officers made contact with K.R.’s
26 mother, Tureko Straughter, and notified her that K.R. would be booked into custody, then transported
27 K.R. to the Juvenile Justice Center. Ms. Straughter visited her son at the juvenile custodial facility that
28 night.

1 24. Upon information and belief, in the evening of Thursday, June 29 or in the morning of
2 Friday, June 30, Deputy Juvenile Probation Officer Nwigwe completed a “Detention Risk Instrument”
3 for K.R. This instrument is the standard instrument used by the Juvenile Probation Department for
4 determining whether or not to detain in juvenile hall youth who are arrested in San Francisco. The
5 instrument provides for scoring upon a set of factors, with the following three options available,
6 depending on the score: 1) 0-7 points: do not book, release within four hours; 2) 8-10 points: release
7 with conditions; and 3) 11+ points: detain.

8 25. Upon information and belief, the instrument also permits the probation officer to override
9 the scoring system and detain a youth even if the point score falls below the threshold for detention. The
10 instrument permits an override and detention of a youth who would otherwise be released if the officer
11 finds any of the six indicated factors: 1) Parent, guardian or responsible relative cannot be located; 2)
12 Parent, guardian or responsible relative unwilling to accept custody of minor; 3) Youth refused to return
13 home; 4) Violation of Home Detention; 5) Violation of Probation; and 6) Other. An override must be
14 approved by a supervisor of the Juvenile Probation Department.

15 26. Upon information and belief, Officer Nwigwe scored K.R. at 6 points, a score for which
16 the instrument indicates that a minor should not be booked in juvenile hall at all, but instead released
17 within four hours. For K.R., Officer Nwigwe elected to override the instrument score and detain him.
18 Officer Nwigwe selected the “Other” category as the basis for the override, and indicated that the reason
19 for the detention was that the minor lived outside of the county. Supervising Probation Officer Toni
20 Powell approved of the detention override for K.R.

21 27. At the time of his detention, K.R. resided in the neighboring city of Oakland, at an
22 address less than 15 miles from the juvenile detention facility. Also at the time of this incident, K.R. was
23 (and still is) attending high school in San Francisco, and his mother Ms. Straughter was (and still is)
24 working in San Francisco. Ms. Straughter had also been immediately responsive to the police and the
25 Juvenile Probation Department officers after K.R. was taken into custody.

26 28. Upon information and belief, in the morning of Friday, June 30, Officer Nwigwe
27 submitted a “Probable Cause” request to the juvenile division of the San Francisco Superior Court. Such
28 a “Probable Cause” request seeks judicial review of the Juvenile Probation Department’s decision to

1 detain a minor. Officer Nwigwe attached two documents to the Probable Cause request: the incident
2 report from the San Francisco Police Department, and the Detention Risk Instrument.

3 29. On Friday, June 30, the Honorable Braden C. Woods, a judge in the juvenile division of
4 the San Francisco Superior Court, having reviewed the Probable Cause request and the attached
5 documents in K.R.'s case, made a finding that there was not sufficient probable cause to detain K.R. and
6 ordered his release.

7 30. Upon information and belief, Judge Woods signed this release order at 2:10 p.m. on
8 Friday, June 30, 2017. The court clerk's office notified the Juvenile Probation Department that the
9 court's decision was available for pick-up, and an officer of the Juvenile Probation Department picked
10 up the order from the clerk's office at approximately 2:30 p.m. on Friday, June 30. Upon information
11 and belief, Officer Nwigwe received the court's decision and release order by no later than 4:00 p.m.
12 that same day.

13 31. Despite having received the court's release order, the Juvenile Probation Department did
14 not release K.R. The Juvenile Probation Department held K.R. in custody until approximately 12:00
15 p.m. on Monday, July 1, 2017.

16 32. While he was held in custody, K.R. was confined in a locked cell, with limited time
17 outside of his cell. K.R. had little appetite and he missed his family. During K.R.'s incarceration, Ms.
18 Straughter was allowed only restricted contact with her son K.R. She was able to visit him three times,
19 the maximum possible number of visits, and each time they spent only approximately 45 minutes
20 together. The visits were in public, under the supervision of the custodial officers, and Ms. Straughter
21 and K.R. were permitted minimal physical contact.

22 33. Upon information and belief, at no point during K.R.'s incarceration did officers of the
23 Juvenile Probation Department take any steps towards complying with the court order to release K.R.

24 34. After the court issued its release order, Officer Nwigwe continued to work on K.R.'s case
25 as if no release order had been issued by preparing to present K.R.'s case to the court on Monday, July
26 3, for a detention hearing. Specifically, Office Nwigwe prepared a detention report and recommendation
27 that was approved by Supervising Probation Officer Roger Gainey, and that continued to recommend
28 that K.R. remain detained.

1 35. Upon information and belief, Officer Nwigwe's detention report was based in part on an
2 investigation conducted in the afternoon of Friday, June 30, after he had submitted his detention
3 recommendation and Probable Cause request to the court. Officer Nwigwe spoke with an individual at
4 the Alameda County Probation Department, and learned of a record for a minor with the same last name,
5 address, and birthdate, but different first name. This minor had been cited in Oakland in January 2017,
6 but the charge was dropped for insufficient evidence.

7 36. In fact, the minor who had been cited in Oakland was K.R.'s twin brother.

8 37. Upon information and belief, Officer Nwigwe used the information received from
9 Alameda County to conclude that K.R. had been using an alias, and changed the records for K.R. to
10 reflect that his true name was the name of the minor who had had prior police contact in Alameda
11 County (K.R.'s twin brother).

12 38. On Friday, June 30, Ms. Straughter received a call from Officer Nwigwe, who advised
13 her that K.R.'s detention hearing would be held on Monday, July 3. Officer Nwigwe did not ask Ms.
14 Straughter about K.R.'s true name or make any attempt to investigate any contacts K.R. may have had
15 with law enforcement in Alameda County. Next, Ms. Straughter received a call from Deputy Public
16 Defender Gregory Feldman with the San Francisco Public Defender's Office, who also advised Ms.
17 Straughter about the detention hearing. During this call, Mr. Feldman referred to K.R. by his brother's
18 name. Ms. Straughter pointed out the mistake, to which Mr. Feldman responded that they would address
19 the issue at the detention hearing on Monday. Each time that Ms. Straughter visited K.R. over the
20 weekend, he was listed under his brother's name.

21 39. At approximately 9:44 a.m. on Monday, June 30, K.R.'s case was called for a detention
22 hearing in Department 3 of the juvenile division of the San Francisco Superior Court, before Judge
23 Woods, presiding. Present at the hearing were: a court officer with the Juvenile Probation Department,
24 Officer Nwigwe, Xochitl Carrion, deputy district attorney with the San Francisco District Attorney's
25 Office, Gregory Feldman, deputy public defender with the San Francisco Public Defender's Office,
26 K.R., Ms. Straughter, and K.R.'s aunt, Tanesha Wilson.

27 40. At the detention hearing, Judge Woods stated on the record K.R.'s true name, and
28 acknowledged that the record from the incident in Oakland did not belong to K.R.

1 41. Judge Woods also stated on the record that he had ordered K.R. to be released on the
2 prior Friday. Judge Woods indicated that, prior to issuing that order, he had reviewed the Juvenile
3 Probation Department's recommendation that K.R. be detained because he lives outside of San
4 Francisco, in Alameda County. Judge Woods then noted that K.R.'s mother was responsive to both the
5 San Francisco Police Department and the Juvenile Probation Department when contacted. Judge Woods
6 then noted that "Alameda County, 12 miles away across the bridge" was the sole basis for the override
7 indicated by the Juvenile Probation Department. Judge Woods stated that, even taking into account the
8 experience of the supervisor in using the Detention Risk Instrument, the court had ordered K.R. to be
9 released from custody.

10 42. Judge Woods also stated on the record that he had confirmed with his staff in the court
11 clerk's office that the Juvenile Probation Department had retrieved the release order by 2:30 p.m. on
12 Friday, June 30. Officer Nwigwe stated to the court that he had received the order around 4:00 p.m.
13 When asked by the court why K.R. had not been released, Officer Nwigwe stated: "Your honor, it was
14 my decision. I didn't see the insufficient evidence because I knew that the Court overrules whatever we
15 do." When questioned again, Officer Nwigwe stated: "I saw the signature. I never read it properly."

16 43. Judge Woods then declined to proceed with the detention hearing, instead treating the
17 hearing as a first jurisdictional hearing. Judge Woods ordered release of K.R. to his mother per the June
18 30 release order. K.R. was thereafter released from custody sometime in the afternoon on July 3, 2017.

19 44. As a result of his incarceration, K.R. was deprived of his freedom and separated from the
20 care and love of his family. He suffered physical discomfort and was subject to the custodial control of
21 the officers. K.R. was also mentally and emotionally injured as a result of his unlawful incarceration,
22 which caused mental anguish, emotional distress, feelings of unjust treatment, reputational harm, fear,
23 anxiety, humiliation, and trauma. Ms. Straughter suffered the loss of her rights as a parent to the care,
24 custody, and companionship of her child, the loss of his services as a family member, emotional distress
25 resulting from his unlawful incarceration, and expenses incurred in vindicating her parental rights.

26 **C. Custom and Practice of the San Francisco Juvenile Probation Department**

27 45. Upon information and belief, the Juvenile Probation Department has a longstanding
28 practice and/or custom of treating youth differently with regard to detention decisions based on the

1 youth's residence outside of the City and County of San Francisco. Such practice and/or custom has
2 been approved and/or ratified by individuals with policymaking authority within the Juvenile Probation
3 Department.

4 46. Upon information and belief, the Juvenile Probation Department has also failed to
5 provide appropriate and necessary training to its employees regarding appropriate, constitutional bases
6 for overriding the detention instrument and/or complying with judicial orders.

7 **D. Harm from the Practices of the San Francisco Juvenile Probation Department**

8 47. Incarceration has a uniquely harmful impact on developing adolescents, whose brains
9 have not yet fully matured.¹

10 48. Incarceration of a young person runs in direct conflict with the factors necessary for
11 healthy brain development by separating him from trusted adults, exposing him to negative peer
12 influences within the custodial facility, and extinguishing his autonomy and access to pro-social
13 activities.²

14 49. Incarceration of youth is associated with a range of immediate harms, including
15 exacerbation of mental health issues, increased risk of self-harm,³ and educational losses in reading and
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20 ¹ NATIONAL RESEARCH COUNCIL, REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL
21 APPROACH 91-92 (Committee on Assessing Juvenile Justice Reform, Richard J. Bonnie, Robert L.
22 Johnson, Betty M. Chemers, and Julie A. Schuck, Eds. Committee on Law and Justice, Division of
23 Behavioral and Social Sciences and Education, The National Academies Press 2013),
24 http://www.njjn.org/uploads/digital-library/Reforming_JuvJustice_NationalAcademySciences.pdf.

25 ² *See id.* (The National Research Council identified three factors that promote healthy psychological
26 development for young people: 1) the presence of a parent or parent-like adult who is involved with and
27 concerned about the young person's development; 2) "inclusion in a peer group that values and models
28 prosocial behavior and academic success;" and 3) opportunities to exercise "autonomous decision
making and critical thinking" through activities and other pro-social settings.)

³ BARRY HOLMAN AND JASON ZIEDENBERG, JUSTICE POLICY INSTITUTE, THE DANGERS
OF DETENTION; THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER
SECURE FACILITIES 8-9 (2006), [http://www.justicepolicy.org/images/upload/06-
11_rep_dangersofdetention_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf).

1 math.⁴ Incarceration exposes youth to negative peer influences, termed the “peer contagion” effect, with
2 placement in an institution resulting in increased criminogenic behaviors among youth.⁵

3 50. Incarceration is also associated with poor criminological outcomes, such that even 2-3
4 days of pretrial detention can lead to increased rates of later recidivism.⁶ Juvenile incarceration in
5 particular results in lower rates of high school graduation and greater rates of adult incarceration.⁷

6 51. Incarceration of youth is also associated with long-term harms, including poor physical
7 and mental health outcomes as an adult. Even short periods of confinement have been associated with
8 higher rates of depression later in life.⁸ Youth who serve time in detention also suffer poor psychosocial
9 outcomes more than a decade after the incarceration occurred.⁹

10 52. In short, recent scientific research has established what many have always known—that
11 incarceration of young people carries the risk of significant harm. Any incarceration of a minor must be
12 viewed through this lens.

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15 ⁴ YOUTH LAW CENTER, EDUCATIONAL INJUSTICE: BARRIERS TO ACHIEVEMENT AND
16 HIGHER EDUCATION FOR YOUTH IN CALIFORNIA JUVENILE COURT SCHOOLS 14-15
(2016), <http://www.ylc.org/wp/wp-content/uploads/EDUCATIONAL%20INJUSTICE.pdf>.

17 ⁵ Uberto Gatti Richard E. Tremblay, Frank Vitaro, Iatrogenic Effect of Juvenile Justice, 50:8 J. CHILD
18 PSYCHOL. & PSYCHIATRY 996-97 (2009),
19 <https://pdfs.semanticscholar.org/a2d3/c794ac4724907d918f90f1989716becff3fe.pdf>.

20 ⁶ Christopher T. Lowenkamp, Marie Van Nostrand, And Alexander Holsinger, The Hidden Costs of
21 Pretrial Detention 19-20 (Arnold Foundation, 2013), [http://www.arnoldfoundation.org/wp-](http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf)
22 [content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf](http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf)

23 ⁷ Anna Aizer and Joseph J. Doyle, Jr., Juvenile Incarceration, Human Capital, and Future Crime:
24 Evidence from Randomly Assigned Judges, 130:2 Q. J. OF ECON. 759-803 (2015),
25 <https://doi.org/10.1093/qje/qjv003>. Related working paper available electronically: Aizer and Doyle,
26 NATIONAL BUREAU OF ECONOMIC RESEARCH Working Paper 19102 3 (2013),
27 <http://www.nber.org/papers/w19102.pdf>.

28 ⁸ Elizabeth S. Barnert, Rebecca Dudovitz, Bergen B. Nelson, Tumaini R. Coker, Christopher Biely,
Ning Li, Paul J. Chung, How Does Incarcerating Young People Affect Adult Health Outcomes?, 139:2
PEDIATRICS 7 (2017),
<http://pediatrics.aappublications.org/content/pediatrics/139/2/e20162624.full.pdf>.

⁹ Karen M. Abram, Nicole M. Azores-Gococo, Kristin M. Emanuel et al, *Sex and Racial/Ethnic
Differences in Positive Outcomes in Delinquent Youth After Detention: A 12-Year Longitudinal Study*,
171:2 JAMA PEDIATRICS 123-132, [http://jamanetwork.com/journals/jamapediatrics/article-
abstract/2592310](http://jamanetwork.com/journals/jamapediatrics/article-abstract/2592310).

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

42 U.S.C. § 1983

**Violation of K.R.'s constitutional right against unlawful incarceration
without due process.**

(By K.R. Against Defendants Nwigwe, Powell, Gainey, DOES 1-30)

53. Plaintiff incorporates by reference all of the above allegations as though fully set forth herein.

54. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30, individually and/or while acting in concert with one another, did act under color of state law to cause Plaintiff K.R. to be incarcerated when there was no legal basis to detain him. Said Defendants continued to detain Plaintiff K.R. after it was known or should have been known that he was entitled to release.

55. The unlawful incarceration of Plaintiff K.R. was done consciously and with deliberate indifference to K.R.'s constitutional right to liberty. The Defendant officers' failure to comply with a court order to release a teenage boy, causing him to be held in locked custody for days without a lawful basis, shocks the conscience. Such conduct deprived Plaintiff K.R. of his liberty rights guaranteed under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

56. As a result of the violation of his rights under the Fourteenth Amendment to the United States Constitution by said Defendants, Plaintiff K.R. suffered the injuries and/or damages as alleged in this Complaint.

57. Upon information and belief, the conduct of Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30 was intentional, willful, wanton, malicious, oppressive, fraudulent, and/or done with a conscious and/or reckless disregard for the rights of Plaintiff K.R. As a result, Plaintiff is entitled to an award of punitive and exemplary damages against said Defendants in amounts to be determined according to proof.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

42 U.S.C. § 1983

Violation of K.R.'s constitutional right against unreasonable seizure.

(By K.R. Against Defendants Nwigwe, Powell, Gainey, DOES 1-30)

58. Plaintiff incorporates by reference all of the above allegations as though fully set forth herein.

59. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30, individually and/or while acting in concert with one another, did act under color of state law to cause Plaintiff K.R. to be incarcerated after there was no longer a legal basis to detain him. Said Defendants continued to detain Plaintiff K.R. after it was known or should have been known that he was entitled to release.

60. The unlawful incarceration of K.R. was unreasonable and without probable cause. Upon the order of the court to release K.R., the legal basis for detaining K.R. was extinguished. Subsequent incarceration of K.R. after receipt of the court's order constituted a new seizure under color of state law by Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30, individually and/or while acting in concert with one another. This "re-seizure" was unsupported by probable cause and was objectively unreasonable. Such conduct deprived Plaintiff K.R. of his right against unreasonable seizure guaranteed under the Fourth Amendment to the United States Constitution.

61. As a result of the violation of his rights under the Fourth Amendment to the United States Constitution by said Defendants, Plaintiff K.R. suffered the injuries and/or damages as alleged in this Complaint.

62. Upon information and belief, the conduct of Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30 was intentional, willful, wanton, malicious, oppressive, fraudulent, and/or done with a conscious and/or reckless disregard for the rights of Plaintiff K.R. As a result, Plaintiff is entitled to an award of punitive and exemplary damages against said Defendants in amounts to be determined according to proof.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

THIRD CAUSE OF ACTION

42 U.S.C. § 1983

Violation of Tureko Straughter's and K.R.'s constitutional rights to familial association.

**(By Tureko Straughter and K.R., Each Individually, Against Defendants Nwigwe, Powell, Gainey,
DOES 1-30)**

63. Plaintiffs incorporate by reference all of the above allegations as though fully set forth herein.

64. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30, individually and/or while acting in concert with one another, did act under color of state law to interfere without due process of law with Plaintiff Straughter's fundamental liberty interest in companionship and society with her child, and Plaintiff K.R.'s fundamental liberty interest in his relationship with his mother. In so acting, said Defendants were responsible for depriving Plaintiffs Straughter and K.R. of their rights of familial association guaranteed by the First, Fourth, and Fourteenth Amendments to the United States Constitution.

65. Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30 interfered with Plaintiffs' rights to familial association by incarcerating K.R. in a locked custodial facility for days without Ms. Straughter's consent and without a lawful basis for incarcerating him. This incarceration of K.R. by said Defendants occurred after it was known or should have been known that K.R. was entitled to release. During this time, said Defendants denied Ms. Straughter and K.R. each other's companionship, not allowing them to visit with the time and privacy needed to bond as family. Such unwarranted interference with Plaintiff Straughter's and K.R.'s right to familial association shocks the conscience, as the conduct of the Defendant officers was conscious of and/or deliberately indifferent to the unlawful separation of Plaintiffs Straughter and K.R.

66. As a result of the violation of Plaintiffs' rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution by said Defendants, Plaintiffs Straughter and K.R. suffered the injuries and/or damages as alleged in this Complaint.

67. Upon information and belief, the conduct of Defendants Nwigwe, Powell, Gainey, and/or DOES 1-30 was intentional, willful, wanton, malicious, oppressive, fraudulent, and/or done with a

1 conscious and/or reckless disregard for the rights of Plaintiffs Straughter and K.R. As a result, Plaintiffs
2 are entitled to an award of punitive and exemplary damages against said Defendants in amounts to be
3 determined according to proof.

4 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

5 **FOURTH CAUSE OF ACTION**

6 **42 U.S.C. § 1983**

7 **Violation of K.R.'s constitutional right to equal protection.**

8 **(By K.R. Against All Defendants)**

9 68. Plaintiff incorporates by reference all of the above allegations as though fully set forth
10 herein.

11 69. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey,
12 and/or DOES 1-30, individually and/or while acting in concert with one another, did act under color of
13 state law to cause Plaintiff K.R. to be incarcerated pre-trial because his residence at the time was outside
14 of the City and County of San Francisco. Said Defendants determined, through their statutorily required
15 investigation into K.R.'s circumstances, that K.R. should be released pretrial without any release
16 conditions. Said Defendants then overrode the release determination, based on the fact that at the time
17 Plaintiff K.R. resided in the neighboring county of Alameda. Said Defendants maintained their
18 incarceration of K.R. based on his county of residence even after a judge ordered him released.

19 70. Such conduct violates Plaintiff K.R.'s right to equal protection, as guaranteed by the
20 Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Defendants
21 Nwigwe, Powell, Gainey, and/or DOES 1-30, individually and/or while acting in concert with one
22 another, caused Plaintiff K.R. to be treated differently than other similarly situated minors whose
23 circumstances also warrant pretrial release but who reside within the City and County of San Francisco.
24 The basis for K.R.'s differential treatment was his residence in a county outside of San Francisco.

25 71. The differential treatment of K.R. based on his county of residence burdened his
26 fundamental right to liberty. On the basis of his county of residence, Defendants Nwigwe, Powell,
27 Gainey, and/or DOES 1-30, caused K.R. to be incarcerated when other similarly situated minors residing
28 in San Francisco are released. Such differential treatment of youth residing outside of San Francisco

1 does not serve a compelling or legitimate state interest, nor is it narrowly tailored or rationally related to
2 such an interest.

3 72. Upon information and belief, the differential treatment of K.R. based on his county of
4 residence was ratified by, and/or condoned by, and/or acquiesced in by Defendants City and County of
5 San Francisco, San Francisco Juvenile Probation Department, Juvenile Probation Department Chief
6 Nance, and/or DOES 21-30 who are high-ranking and/or policymaking officers within the San Francisco
7 Juvenile Probation Department. Such conduct by said Defendants was done with deliberate indifference
8 to the violation of K.R.'s constitutional right to liberty.

9 73. Upon information and belief, the differential treatment of youth whose circumstances
10 warrant pretrial release, based on county of residence, amounts to longstanding practice or custom of the
11 San Francisco Juvenile Probation Department, and is so widespread as to constitute standard operating
12 procedure of the department.

13 74. Upon information and belief, the differential treatment of youth whose circumstances
14 warrant pretrial release, based on county of residence, resulted from a failure properly to train the officer
15 employees regarding the proper, constitutional bases for detention. Such failure to train amounts to
16 deliberate indifference, where there was actual and/or constructive notice that youth were being detained
17 on the unconstitutional basis of county of residence.

18 75. As a result of the violation of his rights under the Fourteenth Amendment to the United
19 States Constitution by Defendants Nwigwe, Powell, Gainey, City and County of San Francisco, San
20 Francisco Juvenile Probation Department, Juvenile Probation Department Chief Nance, and/or DOES 1-
21 30, Plaintiff K.R. suffered the injuries and/or damages as alleged in this Complaint.

22 76. Upon information and belief, the conduct of Defendants Nwigwe, Powell, Gainey, and/or
23 DOES 1-30 was intentional, willful, wanton, malicious, oppressive, fraudulent, and/or done with a
24 conscious and/or reckless disregard for the rights of Plaintiff K.R. As a result, Plaintiff is entitled to an
25 award of punitive and exemplary damages against said Defendants in amounts to be determined
26 according to proof.

27 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.
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FIFTH CAUSE OF ACTION

California Civil Code § 52.1

(By K.R. Against All Defendants)

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4 77. Plaintiff incorporates by reference all of the above allegations as though fully set forth
5 herein.

6 78. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey,
7 and/or DOES 1-30, individually and/or while acting in concert with one another, did interfere, and
8 attempted interference, by threats, intimidation, and coercion with Plaintiff K.R.'s peaceable exercise
9 and enjoyment of rights secured by the Constitution and laws of the United States and the State of
10 California, including but not limited to: the right to due process of law, the right to be free from
11 unreasonable seizure, and the right to equal protection of the law. Such interference, and attempted
12 interference, was intentional and deliberate. It was achieved through the coercive custodial power of the
13 Juvenile Probation Department, and done with actual and presumed knowledge of the court order for
14 Plaintiff K.R.'s release.

15 79. The conduct of said Defendants was done within the course and scope of their
16 employment with Defendants City and County of San Francisco, San Francisco Juvenile Probation
17 Department, and Juvenile Probation Department Chief Nance. Defendants City and County of San
18 Francisco, San Francisco Juvenile Probation Department, and Chief Nance are therefore liable for said
19 conduct under *respondeat superior*.

20 80. As a direct and proximate result of said Defendants' violation of Plaintiff K.R.'s
21 constitutional rights, Plaintiff incurred the damages alleged in this Complaint.

22 81. Plaintiff is entitled to exemplary damages against said Defendants, in an amount to be
23 determined according to proof, pursuant to California Civil Code Sections 52.1(b) and 52.

24 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION

California Government Code § 815.6

Failure to Discharge a Mandatory Duty

(By K.R. and Tureko Straughter, Each Individually, Against All Defendants)

1 82. Plaintiff incorporates by reference all of the above allegations as though fully set forth
2 herein.

3 83. California Government Code Section 815.6 provides for liability against a public entity
4 when:

- 5 a. The public entity violates a mandatory duty imposed by an enactment.
6 b. The enactment is designed to protect against the kind of injury complained of by
7 the plaintiff.
8 c. The plaintiff is in the class of persons protected by the enactment.
9 d. The violation proximately caused the injury; and
10 e. The public entity did not exercise reasonable diligence in discharging its duty
11 established by the enactment.

12 84. An enactment includes a federal or state constitutional provision, statute, charter
13 provision, ordinance, or properly adopted regulation.

14 85. Defendants City and County of San Francisco, San Francisco Juvenile Probation
15 Department, Juvenile Probation Department Chief Nance, Officers Nwigwe, Powell, Gainey, and/or
16 DOES 1-30 were under a mandatory duty to release Plaintiff K.R. following the order for release,
17 pursuant to California Welfare and Institutions Code Sections 628 and 280. Section 628 requires that an
18 officer immediately release a minor unless it can be demonstrated upon the evidence before the court
19 that continuance in the home is contrary to the minor's welfare and that one of the statutory conditions is
20 present. Cal. Welf. & Inst. Code § 628(a)(1). Section 280 requires the county, through its probation
21 officer, to take charge of minors as ordered by the court. Cal. Welf. & Inst. Code § 280. Such
22 requirements constitute mandatory duties, enacted by state law, designed to protect minors such as K.R.
23 from unwarranted and unnecessary incarceration and its attendant harms.

24 86. Upon information and belief, said Defendants, individually and/or while acting in concert
25 with one another, did not exercise due diligence in discharging its mandatory duty to comply with the
26 court's release order. Said Defendants did not release K.R. after it was known or should have been
27 known that he was entitled to release on Thursday, June 29, and Friday, June 30.
28

1 87. As a result of said Defendants' violation of the mandatory duty to release Plaintiff K.R.,
2 both Plaintiff K.R. and Plaintiff Straughter suffered the injuries and/or damages as alleged in this
3 Complaint.

4 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

5 **SEVENTH CAUSE OF ACTION**

6 **False Imprisonment**

7 **(By K.R. Against All Defendants)**

8 88. Plaintiff incorporates by reference all of the above allegations as though fully set forth
9 herein.

10 89. Defendant is liable under California law for false imprisonment when:

- 11 a. There is nonconsensual, intentional confinement of a person,
12 b. Without lawful privilege,
13 c. For an appreciable period of time, however brief.

14 90. A jailer can be held liable for false imprisonment if the jailer knew or should have known
15 that the plaintiff's incarceration was unlawful.

16 91. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey,
17 and/or DOES 1-30, individually and/or while acting in concert with one another, did act within the scope
18 of their employment to cause Plaintiff K.R. to be incarcerated when there was no legal basis to detain
19 him. Such incarceration was nonconsensual and intention custodial confinement in the locked facility of
20 San Francisco's juvenile hall. The incarceration lacked lawful privilege because it was done on an
21 unconstitutional basis—county of residence—in violation of the right to equal protection. The
22 incarceration also lacked lawful privilege because it contradicted the court's release order, in violation
23 of the rights to due process and against unreasonable seizure.

24 92. Said Defendants continued to detain Plaintiff K.R. after it was known or should have
25 been known that he was entitled to release, and therefore Defendants are liable for the tort of false
26 imprisonment. California Government Code Section 820.4 provides: "A public employee is not liable
27 for his act or omission, exercising due care, in the execution or enforcement of any law. Nothing in this
28 section exonerates a public employee from liability for false arrest or false imprisonment."

1 93. Pursuant to Government Code Section 815.2, Defendants City and County of San
2 Francisco, San Francisco Juvenile Probation Department, and Juvenile Probation Department Chief
3 Nance are derivatively liable for the torts of their employees—Defendants Nwigwe, Powell, Gainey,
4 and/or DOES 1-30—who were acting within the scope of their employment when they falsely
5 imprisoned Plaintiff K.R.

6 94. As a result of said Defendants' false imprisonment of Plaintiff K.R., Plaintiff K.R.
7 suffered the injuries and/or damages as alleged in this Complaint.

8 95. Upon information and belief, the conduct of Defendants Nwigwe, Powell, Gainey, and/or
9 DOES 1-30 was intentional, willful, wanton, malicious, oppressive, fraudulent, and/or done with a
10 conscious and/or reckless disregard for the rights of Plaintiff K.R. As a result, Plaintiff is entitled to an
11 award of punitive and exemplary damages against said Defendants in amounts to be determined
12 according to proof.

13 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

14 **EIGHTH CAUSE OF ACTION**

15 **Negligence**

16 **(By K.R. and Tureko Straughter, Each Individually, Against All Defendants)**

17 96. Plaintiff incorporates by reference all of the above allegations as though fully set forth
18 herein.

19 97. Defendant is liable under California law for negligence where:

- 20 a. There is a legal duty to use due care;
21 b. There is a breach of that duty; and
22 c. The breach proximately causes plaintiff's injury.

23 98. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey,
24 and/or DOES 1-30, individually and/or while acting in concert with one another, did act within the scope
25 of their employment to cause Plaintiff K.R. to be incarcerated when there was no legal basis to detain
26 him.

1 99. Said Defendants owed a duty of care to Plaintiffs Straughter and K.R., as said Defendants
2 were the individuals responsible for complying with California Welfare and Institutions Code Sections
3 628 and 280, to ensure appropriate release of detained minors to their parents or guardians.

4 100. The conduct of said Defendants violated their legal duty to Plaintiffs Straughter and K.R.
5 to use due care in employing their custodial power over minors.

6 101. Pursuant to California Government Code Section 815.2, Defendants City and County of
7 San Francisco, San Francisco Juvenile Probation Department, and Juvenile Probation Department Chief
8 Nance are derivatively liable for the torts of their employees—Defendants Nwigwe, Powell, Gainey,
9 and/or DOES 1-30—who were acting within the scope of their employment when they negligently
10 incarcerated Plaintiff K.R. without a legal basis.

11 102. As a result of Defendants conduct, Plaintiff K.R. suffered the injuries and/or damages as
12 alleged in this Complaint.

13 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

14 **NINTH CAUSE OF ACTION**

15 **Interference with Parent-Child Relationship**

16 **(By Tureko Straughter Against All Defendants)**

17 103. Plaintiff incorporates by reference all of the above allegations as though fully set forth
18 herein.

19 104. In doing the acts complained of in this Complaint, Defendants Nwigwe, Powell, Gainey,
20 and/or DOES 1-30, individually and/or while acting in concert with one another, did act within the scope
21 of their employment to intentionally interfere with Plaintiff Straughter's right to her parent-child
22 relationship by incarcerating K.R. without a lawful basis.

23 105. Said Defendants violated Plaintiff Straughter's right to custody of her child by
24 imprisoning her son, Plaintiff K.R., without her consent and without a lawful basis. Such conduct
25 amounts to tortious interference with Plaintiff's Straughter's parental rights because K.R. was taken into
26 custody on public authority, there was a duty to release K.R. once there was no legal basis for the
27 custody, and said Defendants had actual or constructive knowledge that the continued incarceration was
28 without legal privilege.

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Respectfully submitted,

By: /s/ Meredith Desautels Taft

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