

DISABILITY RIGHTS WASHINGTON
Kimberly Mosolf, WSBA #49548
Heather McKimmie, WSBA #36730
David Carlson, WSBA #35767
315 Fifth Avenue South, Suite 850
Seattle, WA 98104
(206) 324-1521

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DISABILITY RIGHTS WASHINGTON, a
nonprofit membership organization for the
federally mandated Protection and Advocacy
Systems,

Plaintiff,

vs.

YAKIMA COUNTY, and Ed Campbell in
his official capacity as Director of the
Yakima County Department of Corrections,

Defendants.

No.

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

I. Preliminary Statement

1. Plaintiff Disability Rights Washington brings this case as an associational plaintiff on behalf of its constituents, people with mental illness or cognitive disabilities. The case is brought against Defendants Yakima County and Yakima County Department of Corrections Director Ed Campbell, in his official capacity, to provide people with mental illness or cognitive disabilities confined in

1 Yakima County Jail with improved treatment they need and are entitled to under the
2 Constitution and federal civil rights laws.

3 2. Plaintiff conducted an extensive investigation of conditions at the
4 Yakima County Jail from the spring through the fall of 2016 which revealed facts
5 upon which this Complaint is based. Plaintiff sent Defendants a demand letter on
6 August 12, 2016. Parties agreed to enter into a structured negotiation process prior
7 to filing this complaint in order to allow Parties to focus their collective efforts on
8 collaborative resolution instead of adversarial litigation of the claims. Over the past
9 year and a half, Plaintiff has continued to monitor the Jail as it has engaged with
10 Defendants in negotiations to address Plaintiff's concerns. Plaintiff acknowledges
11 that Defendants have taken steps to address those concerns of Plaintiff's that were
12 within their immediate reach throughout this process and that some conditions in the
13 jail are transitioning towards resolution.

14 3. Without furthering the reforms committed to in the Settlement
15 Agreement between Parties, Defendants' past and current actions constitute
16 deliberate indifference to the harms suffered by the people in their care due to
17 inadequate mental healthcare. Defendants' mental health screening and assessment
18 procedures have not considered people's mental health histories and have not made
19 consistent and completed referrals to qualified mental health staff. Defendants have
20 not provided adequate therapeutic treatment for people with mental illness, even for

1 those in acute mental health crisis who are most vulnerable to the difficult conditions
2 of jail. Defendants have placed people in acute mental health crisis into more
3 dangerous conditions. Defendants provided no individual or group therapeutic
4 programming and have refused to provide necessary psychiatric medication.

5 4. When Defendants become aware of an inmate's mental health needs,
6 they routinely place them in solitary confinement under harsh conditions without
7 appropriate assessment of the person's needs, behavior, or security and safety risk.
8 Defendants do not screen people for risk of harm prior to placement in solitary
9 confinement, monitor them for decompensation while in solitary confinement, or
10 take action when people report worsening mental health symptoms due to conditions
11 in solitary confinement. They have also used solitary confinement as punishment for
12 inmate behaviors that are the product of mental illness.

13 5. For people who can access mental healthcare at the Jail, Defendants
14 have routinely not provided any privacy for confidential communications. Mental
15 health staff meet with people briefly through their cell doors or in hallways, or with
16 security staff standing close enough to hear conversation. This not only impacts
17 privacy, but it undermines the effectiveness of the mental health services available.

18 6. This case seeks injunctive and declaratory relief to require Defendants
19 establish adequate environments and services that meet the therapeutic needs of
20 people with mental illness, as required by the Eighth and Fourteenth Amendments

1 of the U.S. Constitution, the Americans with Disabilities Act, and the Rehabilitation
2 Act. Without injunctive and declaratory relief, many people with mental illness will
3 continue to languish in Yakima County Jail, getting sicker each day in isolated cells
4 without the treatment and medication they need.

5 **II. Jurisdiction and Venue**

6 7. This action is brought pursuant to 42 U.S.C. § 1983 and § 12132.

7 8. This court has jurisdiction over the subject matter of this action
8 pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1343
9 (civil rights jurisdiction). Declaratory relief is authorized by 28 U.S.C. §§ 2201 -
10 2202.

11 9. Venue in this court is proper pursuant to 28 U.S.C. § 1391.

12 **III. Parties**

13 **Plaintiff**

14 10. Plaintiff Disability Rights Washington, a non-profit corporation duly
15 organized under the laws of the State of Washington, is the statewide protection and
16 advocacy system designated by the Governor of the State of Washington to protect
17 and advocate for the legal and civil rights of those residents of this state who have
18 disabilities, pursuant to the DD Act, 42 U.S.C. §§ 15041-15045, the PAIMI Act, 42
19 U.S.C. §§ 10801-10851, the PAIR Act, 29 U.S.C. § 794e, and the PATBI Act, 42
20 U.S.C. § 300d-53, RCW § 71A.10.080(2). As such, Disability Rights Washington

1 fulfills its federal mandate by providing an array of protection and advocacy services
2 to people with disabilities across Washington, including the constituents in this case.
3 Disability Rights Washington is governed by a board of directors that has a majority
4 people with disabilities and a super majority of people with disabilities and their
5 family members. This board is advised by two advisory councils, the Disability
6 Advisory Council and the statutorily mandated Mental Health Advisory Council,
7 both of which are also comprised of a majority of people with disabilities and super
8 majority of people with disabilities and their family members.

9 11. For decades, Disability Rights Washington has engaged in systemic
10 advocacy and litigation regarding the rights of people with disabilities who have lost
11 their liberty and are denied individualized and appropriate care and treatment.

12 12. Disability Rights Washington's Amplifying Voices of Inmates with
13 Disabilities (AVID) Program is specifically focused on advocating for people with
14 disabilities in jails and prisons. AVID has been recognized across the state and
15 nationally, and has been asked to present at events for the White House, U.S. Senate,
16 National Center on Disability, and at multiple conferences for corrections advocates
17 and administrators across the country.

18 13. AVID has monitored conditions and policies of every county jail and
19 state prison in the state. It has released numerous reports and videos of statewide and
20

1 national significance detailing its findings and advocating for remedies to problems
2 in those settings.

3 14. Disability Rights Washington's AVID Program conducted an extensive
4 investigation into the conditions faced by people with disabilities in Yakima County
5 Jail and has continued to monitor the facility, including reviewing policies, visiting
6 the facility, and speaking to inmates and staff.

7 15. As the federally mandated and designated protection and advocacy
8 entity for Washington State, Disability Rights Washington has associational
9 standing to represent the interests of people with disabilities, including specifically
10 individuals with disabilities who are held in county jails. *See Oregon Advocacy*
11 *Center v. Mink*, 322 F.3d 1101, 1109-16 (9th Cir. 2003) (outlining associational
12 standing requirements for a protection and advocacy system); *Trueblood v.*
13 *Washington State Dep't of Soc. & Health Servs.*, 101 F. Supp. 3d 1010, 1020 (W.D.
14 Wash. 2015), *modified*, No. C14-1178 MJP, 2016 WL 4533611 (W.D. Wash. 2016),
15 *vacated and remanded on other grounds*, 822 F.3d 1037 (9th Cir. 2016) (recognizing
16 DRW's associational standing); *K.M. v. Regence Blueshield*, C13-1214 RAJ, 2014
17 WL 801204 (W.D. Wash. 2014) (holding "DRW has constitutional standing to
18 represent its constituents-individuals with physical, mental and developmental
19 disabilities in Washington State."). Because Disability Rights Washington's
20 constituency includes all Yakima County Jail residents who have mental health

1 conditions or cognitive disabilities, the interests of Disability Rights Washington and
2 the affected individuals are in alignment.

3 **Defendants**

4 **A. Yakima County**

5 16. Defendant Yakima County is a political subdivision of the State of
6 Washington. Defendant Yakima County operates the Yakima County Jail through
7 its Department of Corrections. The Jail is located at 111 N. Front Street, Yakima,
8 WA 98901.

9 17. In its Jail, Yakima County houses people charged with crimes or those
10 convicted and serving sentences up to one year. The Jail population includes
11 numerous people with disabilities, many of whom require specialized services or
12 housing to be safe.

13 18. As the Jail operator, Defendant Yakima County is responsible for the
14 health, safety, and treatment of inmates detained in the facility and for the Jail's
15 staffing and operations. Yakima County is responsible and liable for the actions of
16 all Jail employees, contractors, and sub-contractors.

17 19. As detailed below, Defendant Yakima County has not properly trained
18 or supervised Yakima County employees nor properly promulgated policies and
19 standards to ensure that the Jail is operated in a constitutional manner.
20

B. Ed Campbell, in His Official Capacity

20. Ed Campbell is sued only in his official capacity as the director of the Yakima County Department of Corrections and not as an individual. Defendant Campbell's administrative office is located at 111 N. Front Street in city of Yakima, Washington.

21. Defendant Campbell, in his official capacity, has at all times relevant herein acted under color of state law and has exercised general responsibility, supervision, and oversight of the policies, practices, and operations of the Yakima County Department of Corrections.

22. Defendant Campbell's responsibilities include overseeing all staff and ensuring contractors comply with department and contract expectations, including those staff and contractors responsible for properly treating and serving individuals in the department's physical custody.

23. The material facts set out below are known to Defendant Campbell. All actions described were taken or continue to be taken by Jail staff at the explicit direction of the Jail administration or with the knowledge and consent thereof.

24. In addition, as detailed below, Defendant Campbell has not properly trained or supervised Yakima County Department of Corrections employees and has not properly promulgated policies and standards to ensure that the Jail is operated in a constitutional manner.

1 25. The Yakima County Department of Corrections which Defendants
2 operate employs a number of correctional officers and other staff to operate the Jail.

3 26. Defendant Campbell is physically present at the Jail on a regular basis.

4 **IV. Factual Allegations**

5 **A. Background**

6 27. Plaintiff began investigating the conditions of confinement faced by
7 people with mental illness (hereinafter “Plaintiff’s constituents”) in Defendants’ care
8 in the spring of 2016.

9 28. Plaintiff obtained and reviewed Defendants’ written policies relating to
10 Plaintiff’s constituents in Defendants’ care.

11 29. Between March 2016 and August 2018, Plaintiff made six monitoring
12 visits to Yakima County Jail to examine the facility and speak to Plaintiff’s
13 constituents about their experiences and conditions in Defendants’ care.

14 30. Since March of 2016, Plaintiff has communicated with numerous
15 additional constituents in Defendants’ care via telephone and mail about their
16 experiences and conditions.

17 31. Plaintiff has met several times with Defendants’ staff to discuss the
18 conditions of confinement for Plaintiff’s constituents in Defendants’ care.

19 32. In the course of its investigation, Plaintiff has also reviewed extensive
20 Jail records for eighteen inmates.

1 33. Plaintiff twice provided Defendants with extensive written explanation
2 of its concerns about conditions and mental healthcare in the Jail, including
3 constituent examples.

4 34. Over the past twenty months, Plaintiff and Defendants have engaged in
5 negotiations to address Plaintiff's concerns.

6 35. It is with this familiarity and knowledge of Defendants' practices and
7 policies that Plaintiff makes the following factual allegations on behalf of its
8 constituents.

9 **B. Defendants do not adequately screen and assess inmates for**
10 **chronic or emergency mental healthcare needs.**

11 36. Without effectively identifying an inmate's need, and then connecting
12 that inmate to appropriate follow up appointments and services, Defendants cannot
13 provide adequate mental healthcare.

14 **1. Defendants have not ensured timely and appropriate**
15 **referral to qualified mental health staff when inmates**
16 **indicate chronic or emergency mental healthcare needs.**

17 37. Records reflect that Defendants have used a receiving screening form
18 that allows staff to make routine or urgent referrals for follow up with mental health
19 staff.

20 38. Plaintiff has observed through reviewing constituents records that
Defendants make confusing or conflicting mental health referrals based on the
receiving screening.

1 39. Plaintiff has also observed through reviewing constituents' records that
2 when Defendants make mental health referrals, mental health staff often do not
3 follow up on them.

4 40. When one of Plaintiff's constituents ("Constituent A") came back into
5 Defendants' care in July 2016, his receiving screening resulted in a routine referral
6 to mental health, but mental health staff never followed up with him in person or in
7 writing.

8 41. Constituent A then saw a mental health staff member three weeks later
9 only in response to his written requests for psychiatric medication; by that time he
10 had been placed on suicide watch several times.

11 42. Another of Plaintiff's constituents ("Constituent B") who has a
12 significant mental health history that is well known to Defendants was placed on
13 suicide watch after banging his head against the wall during his booking process on
14 May 6, 2016.

15 43. On May 7th, Constituent B provided information recorded on a
16 receiving screening form that should have triggered notification of supervisory staff
17 and immediate mental health evaluation, as per directions on the screening form.

18 44. At the bottom of this screening form, however, staff did not choose the
19 appropriate option "acute problems, immediate referral," but instead chose a
20 "routine non-emergent" mental health referral for him, without explanation.

1 45. On May 8th, staff performed a physical health screening for Constituent
2 B and noted their significant concerns about his mental health and suicide risk,
3 indicating in their notes that mental health staff would follow up immediately. In
4 fact, mental health staff did not see him until May 12th.

5 46. The screening process for another of Plaintiff's constituent's
6 ("Constituent C") resulted in two separate mental health referrals on the same date—
7 one routine and one urgent—without explanation.

8 47. Notably, mental health staff never followed up on either referral for
9 Constituent C.

10 **2. Defendants do not routinely or timely consult an inmate's**
11 **health records and history when assessing for chronic or**
12 **emergency mental health needs.**

13 48. Plaintiff has reviewed numerous mental health assessments for its
14 constituents that do not reflect the constituent's prior mental health treatment while
15 in Defendant's care or otherwise.

16 49. When Constituent B was booked into the Jail on August 6, 2016, his
17 receiving screening form notes only that he reported having been at Eastern State
18 Hospital, a public psychiatric hospital, in 2016 and having taken psychiatric
19 medication in the past.
20

1 50. In fact, Constituent B had been in Defendants' care until his July 15,
2 2016 release, a mere three weeks prior to this August 6th booking and receiving
3 screening.

4 51. During the prior incarceration—and the many before that—Defendants
5 accumulated lengthy mental health records for Constituent B, including records from
6 the month he spent at Eastern State Hospital and records of the psychiatric
7 medication that Defendants prescribed to him in July.

8 52. Nowhere in Constituent B's August 6th receiving screening is there any
9 indication that Defendants reviewed their own extensive mental health records for
10 him, including the psychiatric medication prescription that was only three weeks old.

11 53. Notably, as a result of the August 6th receiving screening, Defendants
12 did not refer Constituent B for any follow up mental health appointments or mention
13 his need for psychiatric medication.

14 **3. Defendants do not provide appropriate mental health**
15 **evaluations to inmates who indicate chronic or emergency**
 mental healthcare needs.

16 54. Defendants perform brief mental health assessments for some of
17 Plaintiff's constituents, but these do not routinely involve examination by a
18 psychiatrist or psychiatric ARNP, physical examination, documentation of
19 psychiatric and biographical history, or formalized psychological testing.

1 55. Records reflect no evidence of in-depth mental health evaluations
2 beyond brief assessments.

3 56. Constituent B has been repeatedly in and out of Defendants' care and
4 has a significant history of serious mental illness well known to Defendants,
5 including diagnoses of psychotic disorder and bipolar disorder.

6 57. Constituent B has been found not competent to participate in his
7 criminal cases on several occasions and has received restoration services at Eastern
8 State Hospital.

9 58. Records reflect that Defendants did not provide Constituent B with an
10 appropriate mental health evaluation to determine his treatment needs.

11 **C. Defendants do not provide adequate mental healthcare for**
12 **inmates who indicate chronic or emergency mental**
13 **healthcare needs.**

14 **1. Defendants have not had active policies in place governing**
15 **the provision of mental healthcare in the Jail.**

16 59. Defendants provided Plaintiff with three policies governing mental
17 healthcare: mental health appraisal, suicide prevention, and mental health
18 commitment to local hospitals. These policies were prepared by security staff, not
19 by mental health staff.

20 60. Defendants' mental health services are provided through contracted
staff of Comprehensive Healthcare, a community mental health treatment provider.

1 61. Records do not reflect that Defendants' contracted mental health staff
2 acknowledge or routinely follow the three policies Defendants provided.

3 62. Plaintiff specifically requested that Defendants' contracted mental
4 health staff provide the written policies they use to govern their provision of mental
5 healthcare in the Jail.

6 63. In response, Defendants' contracted mental health staff admitted to
7 Plaintiff that they had no such policies in place for providing mental healthcare in
8 the Jail.

9 **2. Defendants do not provide therapeutic treatment to**
10 **inmates who indicate chronic or emergency mental**
 healthcare needs.

11 64. In the course of Plaintiff's investigation, Defendants admitted that they
12 did not provide individual or group therapeutic programming for inmates with
13 mental illness, no matter the need.

14 65. Records reflect that Defendants generally utilize only brief "wellness
15 checks," suicide screening, and psychiatric medication management as forms of
16 mental health treatment.

17 66. Records do not reflect the use of individualized treatment plans by
18 Defendants, even for inmates who have serious mental illness with complicated
19 treatment needs that may require formal coordination between medical, mental
20 health, and custody staff.

1 67. Records reflect that Defendants have not had policies that lay out
2 criteria for mental health monitoring and follow up.

3 68. Records reflect that Defendants' mental health monitoring and follow
4 up with Plaintiff's constituents is inconsistent and does not appear to be based on
5 clinical indications or priorities.

6 69. Records reflect that some of Plaintiff's constituents in acute mental
7 health crisis were scheduled for mental health follow up only "as needed," while
8 other constituents with less acute need were scheduled for follow up in two to four
9 weeks without explanation.

10 70. Defendants have not provided adequate treatment for inmates in acute
11 mental health crisis, instead they have confined these inmates to padded cells,
12 booking cells, or visitation rooms, often in restraints, without significant therapeutic
13 interventions.

14 71. Defendants generally have provided these inmates with fifteen or
15 thirty-minute safety checks and a daily self-harm assessment at the door of their cell,
16 but no other therapeutic interventions.

17 72. In the course of its investigation, Plaintiff has observed, spoken to, and
18 reviewed records for many inmates held in padded cells, booking cells, or visitation
19 cells as a result of acute mental health crisis who describe only getting daily self-
20 harm assessments.

1 73. Defendants' "log sheets" kept to record the fifteen or thirty-minute
2 safety checks often do not list the reason the inmates is placed in isolation for
3 observation, or list contradicting reasons for placement—for example, "behavior"
4 during one shift, and then "medical observation" during the next.

5 **3. Defendants place inmates in acute mental health crisis**
6 **into unsafe conditions.**

7 74. Defendants often place inmates in acute mental health crisis, including
8 those at risk of self-harm or suicide, into padded cells or booking holding cells.

9 75. The only window to this cell is routinely covered so that the inmate
10 cannot be easily viewed or monitored.

11 76. Defendants have also placed inmates in acute mental health crisis,
12 including those at risk of self-harm or suicide, into visitation rooms when there is no
13 space available in the padded cells or booking holding cells.

14 77. Upon information and belief, visitation rooms are not safe for inmates
15 in acute mental health crisis who may be at risk of self-harm or suicide, because they
16 have ligature points and other features that facilitate self-harm and suicide.

17 78. Records reflect that Defendants also routinely place inmates in acute
18 mental health crisis who may be at risk of self-harm or suicide into restraints they
19 call "state chains."

20 79. Defendants have placed inmates restrained in "state chains" into
visitation rooms, often leaving them alone and insufficiently monitored.

1 80. On July 23, 2016, Constituent A told Defendants that he was suicidal
2 and, as a result, Defendants placed him into “state chains” and put him into a
3 visitation room.

4 81. Defendants left him in the visitation room in “state chains” and placed
5 him on thirty-minute checks.

6 82. During a later check on Constituent A in this visitation room,
7 Defendants found him sitting on the floor attempting to strangle himself with a cord.

8 **4. Defendants do not provide adequate treatment with**
9 **psychiatric medications.**

10 83. Records reflect that Defendants have routinely not confirmed existing
11 prescriptions for psychiatric medication for inmates, causing serious delay or denial
12 of necessary medical treatment.

13 84. Constituent A, who has been in Defendants’ care several different times
14 in 2016, reported at a July 2016 booking that he has bipolar disorder for which he
15 was prescribed psychiatric medication by an outside community provider.

16 85. Defendants made no effort to contact the outside provider and confirm
17 this prescription until Constituent A asked why he was not getting his medication
18 three weeks later.

19 86. The day after mental health staff met with him, Constituent A attempted
20 suicide by strangulation.

1 87. Three days later, Defendants finally confirmed the prescription for the
2 medication and began providing it to him.

3 88. Defendants have refused to provide psychiatric medications to inmates
4 unless the inmate entered Jail with current outpatient treatment and existing
5 prescriptions, despite the inmate's actual current need for psychiatric medication.

6 89. Records reflect the following responses written by Defendants to
7 inmates who requested new evaluation for psychiatric medications:

8 a. "...Per YCDOC policy you did not come into custody with medications
9 and will need to follow up with MH services in the community upon
10 your release";

11 b. "...as you were previously told, you will not be started on medications
12 at this time b/c you were not current on them prior to coming into
13 custody";

14 c. "No, you were not current on them when you came to custody and will
15 not be started on them at this time."

16 90. Defendants have disrupted psychiatric medication without
17 communicating any reason to the inmate or recording a reason in the clinical record.
18 Upon information and belief, abrupt discontinuation of psychiatric medication can
19 cause serious health risk.
20

1 91. Records reflect that one of Plaintiff's constituents reported to
2 Defendants that his psychiatric medication had been abruptly discontinued and it
3 was not restarted for a week.

4 92. Upon investigation, Defendants acknowledged this disruption, but
5 could find no documented reason for it.

6 93. Records reflect that Defendants have not provided adequate psychiatric
7 medication to inmates at release from the Jail.

8 **D. Defendants place inmates with mental illness and cognitive**
9 **disabilities into solitary confinement under harmful**
 conditions.

10 94. The United States Department of Justice defines solitary confinement
11 as the "state of being confined to one's cell for approximately 22 hours per day or
12 more, alone or with other prisoners, that limits contact with others."¹

13 **1. Defendants' housing policies and practices result in the**
14 **placement of inmates with mental illness and cognitive**
15 **disabilities into solitary confinement without**
16 **individualized assessment.**

17 95. Defendants often place inmates with mental illness into solitary
18 confinement simply because they are known to have mental illness or display
19 symptoms of mental illness, without individualized assessment of the inmate's
20 behavior, needs, or security and safety risk.

¹ U.S. Department of Justice, Investigation of State Correctional Institution at Cresson, May 13, 2013, Attachment #7, P. 5, https://www.justice.gov/sites/default/files/crt/legacy/2013/06/03/cresson_findings_5-31-13.pdf.

1 96. In response to Plaintiff's inquiry while monitoring the Jail facility,
2 Defendants reported that inmates with mental illness are generally housed in solitary
3 confinement.

4 97. Records reflect that when Constituent C reported worsening symptoms
5 of her schizophrenia, Defendants moved her to solitary confinement and noted that
6 this was "because of the voices in her head."

7 98. At a 2016 booking of Plaintiff Constituent D, Defendants noted that the
8 constituent was well-known to have serious mental illness and had been housed in
9 solitary confinement for mental health reasons during the past few incarcerations.

10 99. Defendants returned him to solitary confinement on this basis alone
11 without further assessment.

12 **2. Defendants do not provide adequate notice of housing**
13 **placement to inmates or the opportunity to meaningfully**
 challenge such placement.

14 100. Records reflect that Defendants have not provided clear information to
15 inmates about their housing placement.

16 101. Records reflect that Defendants have provided housing notices to
17 inmates that state simply that the inmate is being placed in "special housing for your
18 safety or the safety of others."
19
20

1 102. The housing notices provided to inmates do not make clear what type
2 of housing an inmate is actually being assigned to or the reason for that assignment
3 in any meaningful way.

4 103. In the course of its investigation, Plaintiff found that Defendants
5 routinely provide these inadequate housing notices to its constituents who are being
6 placed in solitary confinement.

7 104. Records reflect that Defendants also provide no meaningful process for
8 inmates with mental illness to challenge their placement into solitary confinement.

9 105. When Plaintiff has spoken in person and via telephone to its
10 constituents held in solitary confinement, many did not know why they were in
11 solitary confinement or how they could be transferred out of solitary confinement.

12 **3. Defendants routinely impose disciplinary sanctions on**
13 **inmates in response to behaviors related to the inmate's**
14 **mental illness or cognitive disabilities.**

15 106. Defendants have a list of many infractions that result in varying degrees
16 of punishment, including placement in solitary confinement for up to sixty days.

17 107. Defendants categorize “self-mutilation” as a serious infraction, which
18 can result in sanctions of up to sixty days in solitary confinement, loss of
19 commissary, loss of “good time,” loss of visitation privileges, and removal from a
20 program.

1 108. “Self-mutilation” includes inmate acts of self-harm resulting from their
2 mental illness.

3 109. Defendants also categorize other behaviors that may be the result of the
4 symptoms of mental illness as infractions, including “refusing to exit a cell or
5 housing unit,” “damaging, mutilating, altering or defacing” Defendants’ property,
6 “obscene or abusive language or gestures,” “disrespecting YCDOC staff,” “blocking
7 or covering vents/lights/thermostat/windows,” “hanging unauthorized
8 pictures/drawing,” “failure to cooperate with staff,” “improper dress,” and
9 “excessive noise.”

10 110. All of these infractions may result in placement into solitary
11 confinement for a period of between three and sixty days.

12 111. Records reflect that Defendants have not reviewed infractions and
13 sanctions for the role of mental illness and competency.

14 112. Constituent B has been routinely issued major infractions for behaviors
15 related to his mental illness, and has often been sanctioned with periods of thirty or
16 sixty days in solitary confinement as a result.

17 113. On May 5, 2016, while being held in a padded cell and described by
18 officers as “talking nonsense,” Constituent B punched and cracked the window in
19 his cell door.

1 114. Defendants issued him a major infraction for breaking Defendants'
2 property and imposed a sanction of thirty days in solitary confinement.

3 115. Despite Constituent B's well-known history of mental illness and the
4 specific circumstances of this incident, Defendants did not consult with mental
5 health staff or consider whether Constituent B's mental illness may have played a
6 role in the incident to the extent it reduced or eliminated his culpability.

7 **4. Defendants do not respond to the harmful effects of**
8 **solitary confinement on inmates with mental illness or**
9 **cognitive disabilities.**

10 116. Experts and courts have widely accepted that solitary confinement risks
11 serious harm, especial to people with mental illness or cognitive disabilities.

12 117. Defendants have not assessed whether solitary confinement risks
13 serious harm to inmates with mental illness or cognitive disabilities before placing
14 them in solitary confinement.

15 118. Defendants' policies do not require mental health staff to perform any
16 assessment of potential harm to an inmate from placement in solitary confinement
17 prior to that inmate's placement.

18 119. Constituents A and B, both known to Defendants to have serious mental
19 illness, were placed in solitary confinement on several occasions without mental
20 health consultation about the potential harm of such confinement.

1 120. Defendants do not adequately monitor inmates with mental illness held
2 in solitary confinement for worsening mental health symptoms.

3 121. Defendants do not perform any routine mental health rounds in the
4 solitary confinement units to promote access to care or monitor inmates for
5 decompensation.

6 122. Records and Defendants' admissions reflect that Defendants do not
7 perform any regular mental health monitoring of solitary confinement units.

8 123. Even when inmates with mental illness held in solitary confinement
9 proactively report the negative effects of solitary confinement on their mental health,
10 Defendants have not taken any meaningful action.

11 124. Constituent C, who has a diagnosis of schizophrenia and was placed in
12 solitary confinement by Defendants because of her symptoms, submitted a written
13 request to Defendants reporting, "I have a mental illness. Leaving me in the hole
14 would trigger my voices louder.... I wouldn't like to be in the Hole/Seg any longer,
15 can you get me out please?"

16 125. Defendant's written response to her was simply, "I do not have any
17 place to put you."
18
19
20

E. Defendants do not provide inmates with confidential communications about their healthcare.

126. Records reflect that Defendants routinely did not provide confidential health communication for inmates, which violates their rights and harms their clinical outcomes.

127. Defendants' contracted mental health staff routinely meet with inmates in the Jail hallways or through the pass-through slot in their cell doors.

128. During these meetings, a security officer is often present which affords no privacy for the inmate to communicate with mental health staff.

129. Conducting visits in the hallways or through the door means that both security staff and other inmates are privy to confidential health information.

130. Records reflect that Defendants do not record when or if there are security concerns that would support the need to meet in public settings or with an officer present.

131. In the records for Constituent C, a mental health staff member notes that she met with Constituent C through the hatch in her cell door because she is held in segregation, without further explanation.

132. Upon information and belief, Defendants' practices of conducting mental health meetings in public spaces prevents inmates from fully discussing sensitive information with clinicians, thereby preventing access to necessary mental healthcare.

1 133. Records reflect that Plaintiff's Constituent E who was housed in an
2 open dormitory asked Defendants if he could be taken out of the dormitory when he
3 meets with mental health staff because he did not want everyone in the tank or the
4 officers present to hear what he wanted to say.

5 134. Defendants responded that "sometimes due to officers being busy and
6 also for security reasons, we cannot pull you out to talk and the officers have to stand
7 by our side for security as well."

8 135. Defendants provided no specific security concern regarding this
9 constituent, who was housed with many other inmates in an open dormitory setting.

10 136. When this constituent then asked about health confidentiality
11 requirements and requested to meet in a visitation room, or at least to be pulled out
12 into the hallway, Defendants did not respond further on this issue.

13 **V. Claims for Relief**

14 **A. First Cause of Action: Fourteenth Amendment – Cruel and** 15 **Unusual Conditions**

16 137. The allegations of the paragraphs above are incorporated herein.

17 138. By the policies and practices described herein, Defendants deprive
18 Plaintiff's constituents who are pre-trial detainees of the minimal civilized measure
19 of life's necessities, place them at unreasonable risk of harm and injury, and violate
20 their right to be free from cruel and unusual conditions under the Fourteenth
Amendment to the United States Constitution. U.S. Const. Amend XIV, § 1.

1 139. The policies and practices complained of herein have been and continue
2 to be implemented by Defendants and its agents, officials, employees, and all
3 persons acting in concert under color of state law, in their official capacity.
4 Defendants have been and are aware of all the deprivations complained of herein,
5 and have condoned or been deliberately indifferent to such conduct.

6 140. Defendants have been deliberately indifferent to Plaintiff's
7 constituents' health and safety by:

- 8 a. failing to appropriately screen and assess inmates for chronic and
9 emergent mental health needs;
- 10 b. failing to provide necessary and adequate mental healthcare for inmates
11 who indicate chronic or emergent mental healthcare needs;
- 12 c. placing inmates with mental illness into solitary confinement under
13 inhumane conditions; and
- 14 d. violating inmates' right to confidential communication with mental
15 healthcare providers.

16 **B. Second Cause of Action: Eighth Amendment – Cruel and**
17 **Unusual Conditions**

18 141. The allegations of the paragraphs above are incorporated herein.

19 142. By the policies and practices described herein, Defendants deprive
20 Plaintiff's constituents of the minimal civilized measure of life's necessities, place
them at unreasonable risk of harm and injury, and violate their right to be free from

1 cruel and unusual conditions under the Eighth Amendment to the United States
2 Constitution. U.S. Const. Amend VIII.

3 143. The policies and practices complained of herein have been and continue
4 to be implemented by Defendants and its agents, officials, employees, and all
5 persons acting in concert under color of state law, in their official capacity.
6 Defendants have been and are aware of all the deprivations complained of herein,
7 and have condoned or been deliberately indifferent to such conduct.

8 144. Defendants have been deliberately indifferent to Plaintiff's
9 constituents' health and safety by:

- 10 a. failing to appropriately screen and assess inmates for chronic and
11 emergent mental health needs;
- 12 b. failing to provide necessary and adequate mental healthcare for inmates
13 who indicate chronic or emergent mental healthcare needs;
- 14 c. placing inmates with mental illness into solitary confinement under
15 inhumane conditions; and
- 16 d. violating inmates' right to confidential communication with mental
17 healthcare providers.

18 **C. Third Cause of Action: Fourteenth Amendment –**
19 **Procedural Due Process**

20 145. The allegations of the paragraphs above are incorporated herein.

1 146. By the policies and practices described herein, Defendants deprive
2 Plaintiff's constituents of a significant liberty without any procedural safeguards in
3 violation of the Due Process Clause of the Fourteenth Amendment to the United
4 States Constitution. U.S. Const. Amend XIV, § 1.

5 147. The Defendants regularly violate the Fourteenth Amendment by:

- 6 a. failing to provide adequate notice of housing placement to Plaintiff's
7 constituents;
- 8 b. failing to provide Plaintiff's constituents with the opportunity to
9 meaningfully challenge placement in solitary confinement;
- 10 c. failing to provide meaningful and timely periodic review of Plaintiff's
11 constituents' continued long-term and indefinite detention in solitary
12 confinement;
- 13 d. failing to provide meaningful notice of what Plaintiff's constituents
14 must do to be transferred out of solitary confinement; and
- 15 e. routinely placing Plaintiff's constituents into solitary confinement as
16 discipline for behaviors related to mental illness without providing
17 opportunity to assess the role of mental illness in the disciplinary
18 incident.
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D. Fourth Cause of Action: Americans with Disabilities Act and Section 504 of the Rehabilitation Act

148. The allegations of the paragraphs above are incorporated herein.

149. Plaintiff's constituents are all "qualified individuals with a disability" within the meaning of 42 U.S.C. § 12131(2) and are "otherwise qualified individuals with a disability" within the meaning of the Rehabilitation Act, 29 U.S.C. § 794.

150. Defendant Yakima County is a public entity as defined by 42 U.S.C. § 12131(1)(a).

151. Defendant Yakima County receives federal financial assistance, and Defendant is thus subject to the provisions of the Rehabilitation Act.

152. Defendants discriminate against Plaintiff's constituents on the basis of disability by:

- a. failing to ensure that people with mental illness have access to, are permitted to participate in, and are not denied the benefits of, programs, services and activities. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.152(b)(1); 29 U.S.C. § 794;
- b. failing to properly assess inmates on an individual basis to determine whether solitary confinement is appropriate housing. *See* 28 C.F.R. § 35.130(h); 29 U.S.C. § 794;

1 c. failing to “ensure that inmates or detainees with disabilities are housed
2 in the most integrated setting appropriate to the needs of the
3 individuals.” 28 C.F.R. § 35.152(b)(2); *see* 29 U.S.C. § 794; and

4 d. failing to make “reasonable modification in policies, practices, or
5 procedures when the modifications are necessary to avoid
6 discrimination on the basis of disability....” 28 C.F.R. § 35.130(b)(7);
7 *see* 29 U.S.C. § 794.

8 153. Reasonable modification of Defendants’ policies, practices and
9 procedures would not fundamentally alter the nature of their services, programs or
10 activities.

11 **VI. Prayer for Relief**

12 154. Wherefore, Plaintiff requests that this Court:

13 155. Issue a declaratory judgment that the conduct, conditions, and
14 treatment described in the complaint violate Plaintiff’s constituents’ constitutional
15 and statutory rights in the manner identified in this complaint.

16 156. Issue a permanent injunction restraining Defendants from violating
17 the Eighth and Fourteenth Amendments and the Americans with Disabilities Act
18 and Rehabilitation Act in the housing and provision of care in the Yakima County
19 Jail.

1 157. Issue an award for Plaintiff's costs, litigation expenses, and
2 reasonable attorney's fees pursuant to 42 U.S.C. § 1988 and 42 U.S.C. § 12205.

3 158. Such other and further relief as this Court may deem just and
4 equitable.

5 Dated this 18th day of December 2018.

6
7 Respectfully Submitted,

8 **DISABILITY RIGHTS WASHINGTON**

9 s/Kimberly Mosolf

10 Kimberly Mosolf, WSBA #49548

11 Attorney for Plaintiff
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