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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

In re: Brandon D.

Case No. FJ57137

**AMICUS BRIEF OF THE AMERICAN  
CIVIL LIBERTIES UNION,  
CHILDREN’S DEFENSE FUND-  
CALIFORNIA, JUVENILE JUSTICE  
CLINIC AT LOYOLA LAW SCHOOL,  
PACIFIC JUVENILE DEFENDER  
CENTER, AND PEACE AND JUSTICE  
LAW CENTER RE: ORDER TO  
SHOW CAUSE RE: LOS PADRINOS  
JUVENILE HALL**

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1                   **STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE**

2                   The Court is considering whether it should issue an order directing the Los Angeles  
3 County (“County”) Department of Probation (“Probation”) to transfer Brandon and all  
4 other youths currently housed at Los Padrinos to secure facilities deemed suitable by the  
5 California Board of State and Community Corrections (“BSCC”), and to discontinue the  
6 use of Los Padrinos unless and until the BSCC deems it suitable pursuant to Cal. Welf. &  
7 Inst. Code § 209 (*see* OSC at 3-4). That question has particular significance to the *Amici*,  
8 who strongly support the issuance of such an order.

9                   Far from offering “the safe and supportive homelike environment” required to  
10 promote rehabilitation, *see* Cal. Welf. & Inst. Code § 851, or providing youth with  
11 “reasonable safety and minimally adequate care and treatment appropriate to the age and  
12 circumstances of the child[,]” *see B.K. v. Snyder*, 922 F.3d 957, 968 (9th Cir. 2017), the  
13 conditions at Los Padrinos violate state and federal law and effectively punish, isolate, and  
14 intimidate youth in the hall, while depriving them of crucial rehabilitative opportunities.  
15 The County’s and Probation’s continued incarceration of children in a facility that fails to  
16 meet basic statutory and constitutional standards under state and federal law endangers the  
17 youth and places them at substantial risk of serious harm. *Amici* write to emphasize these  
18 risks of harm that inhibit the rehabilitative purposes of the youth justice system.

19                   The **American Civil Liberties Union Foundation (“ACLU”)** is a nationwide,  
20 nonprofit, nonpartisan organization with more than 2 million members and supporters  
21 dedicated to the principles of liberty and equality in the U.S. Constitution and this nation’s  
22 civil rights laws. Consistent with that mission, the ACLU established the National Prison  
23 Project (NPP) in 1972 to protect and promote the civil and constitutional rights of  
24 incarcerated people of all ages. NPP’s mission is to ensure that conditions in prisons, jails,  
25 juvenile detention, and immigration detention facilities comply with the Constitution,  
26 domestic law, and international human rights principles. NPP works to reverse the policies  
27 that have given the U.S. the highest incarceration rate in the world and led to the extreme  
28 over-representation of people of color in carceral settings. NPP has more than five decades

1 of experience in complex prisoners’ rights class action suits, including on behalf of adults  
2 in L.A. jails, as well as litigation across the U.S. challenging conditions of incarceration of  
3 children. NPP has litigated on behalf of incarcerated people in California’s state and federal  
4 courts; it recently represented incarcerated youth before the Fifth Circuit in 2023; and since  
5 1990 has represented incarcerated people in five cases before the U.S. Supreme Court.

6       The **ACLU of Southern California (“ACLU SoCal”)** is an affiliate of the national  
7 ACLU. It is a nonprofit, nonpartisan civil liberties organization with more than 55,000  
8 members that protects the rights and liberties guaranteed to all Californians by the state  
9 and federal Constitutions. Since 1975, ACLU SoCal has challenged the incarceration of  
10 people in L.A. County carceral facilities that are incapable of providing constitutionally  
11 appropriate care and services, including *Rutherford v. Luna* (class action challenging  
12 conditions of confinement from overcrowding in the L.A. County jails, which resulted in  
13 a 1978 court order and judgment, affirmed by the U.S. Supreme Court in 1984, and is still  
14 under active monitoring), *Rosas v. Luna* (class action challenging pattern and practice of  
15 excessive force in the County jails, which resulted in a 2015 consent decree, and is still  
16 under active monitoring), *Johnson v. Luna* (class action on behalf of incarcerated people  
17 with mobility impairments alleging violations of the ADA, which resulted in a 2015  
18 settlement agreement and is still under active monitoring), and *Robertson v. Block* (a class  
19 action brought on behalf of gay men incarcerated in the County jails, which settled in 1985  
20 and impacts conditions of confinement for all LGBTQI+ people today). ACLU SoCal has  
21 advocated to ensure the health and well-being of children incarcerated in L.A. County,  
22 including successfully challenging the failure to provide constitutionally adequate  
23 education to youth at Camp Challenger in *Casey A. v. Gundry*, Civ. Act. No. CV 10-00192  
24 GHK (FMOx) (C.D. Cal. 2010), reporting extensively on the use of toxic chemical agents  
25 in juvenile detention facilities,<sup>1</sup> and publicly opposing the Board of Supervisors’ 2023  
26 authorization to assign reserve deputies to Los Padrinos. ACLU SoCal has advocated for

27 <sup>1</sup> See Ian Kysel, ACLU SoCal, *Toxic Treatment: The Abuse of Tear Gas Weapons*  
28 *in Calif. Juv. Detention*, (May 22, 2019), at  
[https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_toxic\\_treatment\\_report\\_2019.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_toxic_treatment_report_2019.pdf).

1 the creation and expansion of alternatives to incarceration like the Office of Diversion and  
2 Reentry, opposed the construction of new carceral facilities in L.A. County, and  
3 encouraged the County to expand, deepen, and meaningfully implement a “Care First, Jails  
4 Last” vision of community-centered care.

5 Given their experience in litigating conditions of confinement for adults and  
6 children in carceral facilities both in California and across the country, the ACLU submits  
7 this brief to set forth the relevant controlling federal law that this Court may rely upon in  
8 evaluating whether it should issue its contemplated order.

9 The **Children’s Defense Fund-California (“CDF-CA”)** is the state office of the  
10 Children’s Defense Fund, a national child advocacy organization rooted in the Civil Rights  
11 and Women’s movements that works at the intersection of well-being and racial justice for  
12 children and youth. We work with and amplify the power of youth and families through  
13 advocacy, community organizing, and public policy. We envision a future where children,  
14 youth, and families are free from systems of surveillance and control and can live with  
15 dignity, hope, and joy. CDF-CA has been involved with the BSCC since its inception,  
16 including educating BSCC members about issues plaguing juvenile halls and advocating  
17 for better BSCC oversight and standards. CDF-CA closely monitors BSCC inspections in  
18 L.A., and the repeated cycles of noncompliance in all County juvenile facilities.

19 The **Juvenile Justice Clinic (JJC) at Loyola Law School** provides holistic, client-  
20 centered advocacy for youth in the L.A. juvenile justice system. Law students accepted  
21 into the JJC engage in a year-long course focused on law, policy, and social and  
22 environmental factors impacting youth in delinquency matters. Topics such as race,  
23 poverty, identity, family instability, disabilities, mental health factors, and adolescent  
24 development are covered as JJC recognizes that delinquency-impacted youth often have  
25 many unaddressed needs that require specialized care and attention. JJC is part of Loyola’s  
26 Center for Juvenile Law and Policy, created in 2004 to foster systemic reform of the  
27 juvenile justice system by participating in and encouraging research, discussion and  
28 advocacy in the field and developing policy initiatives for systemic change. JJC represents

1 youth detained at Los Padrinos for both short and long periods of time. We are invested in  
2 adequate care-first, trauma informed care for delinquency-involved youth, which Los  
3 Padrinos Juvenile Hall and Probation cannot provide.

4       The **Pacific Juvenile Defender Center (PJDC)** is a statewide public interest,  
5 nonprofit organization that works to improve the quality of legal representation for youth  
6 in the justice system and to address important juvenile policy issues. We provide support  
7 to more than 1,600 juvenile court lawyers, appellate counsel, law school clinical programs  
8 and nonprofit lawyers to ensure quality representation for young people throughout  
9 California and around the country. Collectively, our members serve as counsel of record in  
10 thousands of juvenile court delinquency cases across California. PJDC has been active in  
11 supporting legislation to realign the youth justice system from large state-operated facilities  
12 to local detention centers that are more conducive to providing services and rehabilitation.  
13 PJDC has advocated for funding and oversight to accomplish these goals.

14       The **Peace and Justice Law Center (PJLC)** is a nonprofit legal advocacy  
15 organization whose mission is to foster communities where conflicts are resolved through  
16 healing and accountability rather than institutions of violence, repression, and intimidation.  
17 Among its projects, the PJLC works with legal advocates and policymakers to strengthen  
18 BSCC policies on unsuitability findings, corrective action plans, and facility closures.  
19 PJLC's co-executive director, Sean Garcia-Leys, brings direct experience to this work,  
20 having served as a commissioner on the Los Angeles County Probation Oversight  
21 Commission, where he co-authored its most recent inspection report on Los Padrinos. In  
22 keeping with its mission, PJLC's interest in this case is to mitigate the violence in Los  
23 Padrinos by effectively enforcing Welfare and Institutions Code § 209.

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## INTRODUCTION

For more than seven decades, the U.S. Supreme Court has repeatedly reaffirmed that “[c]hildren have a very special place in life which law should reflect.” *May v. Anderson*, 345 U.S. 528, 536 (1953) (Frankfurter, J., concurring); *see also J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (“[O]ur history is replete with laws and judicial recognition’ that children cannot be viewed simply as miniature adults.”) (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 115-116 (1982)); *Kent v. United States*, 383 U.S. 541, 556 (1966) (“There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.”).

The basic legal principle that minors are different from adults, and that the “distinctive attributes of youth” have legal significance, is reflected in a myriad of constitutional contexts, including the Eighth Amendment protection against cruel and unusual punishments. *See, e.g., Miller v. Alabama*, 567 U.S. 460, 471 (2012) (Eighth Amendment bars mandatory sentence of life without parole for crimes committed before the age of 18, as “children are constitutionally different from adults for purposes of sentencing.”); *J.D.B.*, 564 U.S. at 272 (explaining that youth “are more vulnerable or susceptible to . . . outside pressures than adults,” and adopting a “reasonable child” standard for determining the scope of *Miranda* protections) (citation and internal quotation marks omitted); *Graham*, 560 U.S. at 82 (striking down life without parole sentences for juveniles convicted of nonhomicide offenses); *Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment bars capital punishment for crimes committed before the age of 18).

For the youth at Los Padrinos, this legal principle is of paramount importance. These children—who were involuntarily removed from their families and communities, and often have complex histories of trauma, abuse, disabilities, and high needs—are entirely dependent upon the County for health care, safety, education and programming, family contact, rehabilitation, and physical and mental well-being.

Relevant here, the Supreme Court has emphasized that children’s developmental



1 characteristics render them more vulnerable to lasting psychological harm than adults. *See*  
2 *Graham*, 560 U.S. at 68 (“[D]evelopments in psychology and brain science continue to  
3 show fundamental differences between juvenile and adult minds.”); *Roper*, 543 U.S. at 569  
4 (explaining that adolescence is a period when youth are “most susceptible . . . to  
5 psychological damage”) (quoting *Eddings*, 455 U.S. at 115). Due to this developmental  
6 vulnerability, punishments that may be constitutionally acceptable for adults are often  
7 found unduly harsh for youth. *See Montgomery*, 577 U.S. at 206 (“[C]ertain punishments  
8 [are] disproportionate when applied to juveniles.”) (citing *Miller*, *Graham*, and *Roper*).<sup>2</sup>

## 9 ARGUMENT

### 10 I. CONDITIONS AT LOS PADRINOS VIOLATE CHILDREN’S FEDERAL 11 RIGHTS

#### 12 A. Controlling Federal Constitutional and Statutory Legal Standards

13 “Underlying the Eighth Amendment is the fundamental premise that [incarcerated  
14 people] are not to be treated as less than human beings.” *Spain v. Procnier*, 600 F.2d 189,  
15 200 (9th Cir. 1979). Thirty years later, the Supreme Court affirmed this principle when  
16 analyzing the rights of adults in California prisons:

17 As a consequence of their actions, prisoners may be deprived of rights that  
18 are fundamental to liberty. Yet the law and the Constitution demand  
19 recognition of certain other rights. Prisoners retain the essence of human  
20 dignity inherent in all persons. Respect for that dignity animates the Eighth  
21 Amendment prohibition against cruel and unusual punishment. The basic  
22 concept underlying the Eighth Amendment is nothing less than the dignity  
23 of man.

24 *Brown v. Plata*, 563 U.S. 493, 510 (2011) (citations and internal quotation omitted).

25 The Eighth Amendment prohibits government officials from acting with deliberate  
26 indifference to the risks that people in their custody will suffer harm from carceral  
27 conditions. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Farmer v. Brennan*, 511 U.S. 825,  
28 828 (1994). Officials act with deliberate indifference when they: (1) have subjective  
29 knowledge of the risks or those risks are “obvious,” and (2) fail to take reasonable action

<sup>2</sup> *See* Part II, *infra*, for a further discussion of the psychological and physical harms  
experienced by children incarcerated at Los Padrinos.

1 to abate those risks. *Lemire v. Cal. Dep’t of Corr. & Rehab.*, 726 F.3d 1062, 1078 (9th Cir.  
2 2013) (quoting *Farmer*, 511 U.S. at 842).

3 Even under the Eighth Amendment, incarcerated children have greater rights and  
4 protections than adults in custody. Most federal courts, including the Ninth Circuit, use the  
5 “more protective” Fourteenth Amendment’s substantive due process standard to analyze  
6 the conditions of confinement for youth in juvenile correctional and detention facilities,  
7 instead of the Eighth Amendment’s deliberate indifference analysis, because juvenile  
8 adjudications are not equivalent to criminal convictions. *See Gary H. v. Hegstrom*, 831  
9 F.2d 1430, 1432 (9th Cir. 1987) (citing *Jones v. Johnson*, 781 F.2d 769, 771 (9th Cir. 1986)  
10 and *Whitley v. Albers*, 475 U.S. 312 (1986)). A Fourteenth Amendment violation is shown  
11 by an express intent to punish, or by conditions not reasonably related to the aims of  
12 confinement, or excessive in relation to those aims. *Bell v. Wolfish*, 441 U.S. 520, 538-39  
13 (1979); *see Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982) (state has heightened duties  
14 to confined people when the purpose of their detention is not punitive). *Bell* and *Youngberg*  
15 establish that conditions for children adjudicated delinquent or who are pre-trial awaiting  
16 adjudication— like the youth at Los Padrinos ostensibly held for rehabilitative care —  
17 should be analyzed under the Fourteenth Amendment. *See, e.g., Gary H.*, 831 F.2d at 1432;  
18 *see also A.M. v. Luzerne Cnty. Juv. Det. Ctr.*, 372 F.3d 572, 579 (3rd Cir. 2004); *Santana*  
19 *v. Collazo*, 714 F.2d 1172, 1180-83 (1st Cir. 1983); *Nelson v. Heyne*, 491 F.2d 352, 358,  
20 360 (7th Cir. 1974).

21 Under the Fourteenth Amendment substantive due process standard, only the  
22 objective prong of the deliberate indifference test must be satisfied. *Kingsley v.*  
23 *Hendrickson*, 576 U.S. 389, 398 (2015); *Gordon v. County of Orange*, 888 F.3d 1118,  
24 1124-25 (9th Cir. 2018). While the Fourteenth Amendment analysis does not require the  
25 subjective prong analysis of *Farmer*, L.A. County cannot plausibly assert that it lacks  
26 subjective knowledge of the widespread problems at Los Padrinos, given the number of  
27 times they have been placed on notice not only by the BSCC, but by advocates, public  
28 defenders, and others. *See infra* Part III.

1           The constitutional protections for incarcerated people are not limited solely to health  
2 care or safety. Their mistreatment violates the Constitution, regardless of whether it causes  
3 physical injury, when it “offend[s] contemporary concepts of decency, human dignity, and  
4 precepts of civilization which we profess to possess.” *Hope v. Pelzer*, 536 U.S. 730, 737 &  
5 n.6, 739 (2002) (citations and quotation marks omitted). Officials may not deprive people  
6 of the “minimal civilized measure of life’s necessities.” *Farmer*, 511 U.S. at 834. These  
7 necessities include “food, clothing, shelter, medical care and reasonable safety,” *Helling v.*  
8 *McKinney*, 509 U.S. 25, 32 (1993), along with “warmth [and] exercise.” *Wilson v. Seiter*,  
9 501 U.S. 294, 304 (1991), and “social contact and environmental stimulation.” *Wilkerson*  
10 *v. Stalder*, 639 F.Supp. 2d 654, 679 (M.D. La. 2007). And “the requirements for mental  
11 health care are the same as those for physical health care needs.” *Doty v. Cnty. of Lassen*,  
12 37 F.3d 540, 546 (9th Cir. 1994).<sup>3</sup>

13           In assessing if a risk of harm violates “contemporary standards of decency,” courts  
14 rely on federal and state practices, as well as scientific studies. *See Hall v. Florida*, 572  
15 U.S. 701, 709-10 (2014) (holding that it was “proper to consider the psychiatric and  
16 professional studies” to resolve an Eighth Amendment claim); *Graham*, 560 U.S. at 62  
17 (looking to federal and state practices to resolve Eighth Amendment claim); *Spain*, 600  
18 F.2d at 200 (“[W]hen confronting the question whether penal confinement in all its  
19 dimensions is consistent with the constitutional rule, the court’s judgment must be  
20 informed by current and enlightened scientific opinion as to insure good physical and  
21 mental health for prisoners.”).

22           Moreover, controlling federal legal standards do not require proof of actual physical  
23 injury to obtain injunctive or declaratory relief; rather, the Constitution is violated by an  
24 unreasonable *risk* of harm. *Helling*, 509 U.S. at 33, 34 (holding that the idea that “the  
25 Eighth Amendment protects against future harm to inmates is not a novel proposition” and  
26

27           <sup>3</sup> Many of the cases cited herein rely upon the more exacting Eighth Amendment  
28 analysis, which encompasses the Fourteenth Amendment standard. *See City of Revere v.*  
*Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983)(“[T]he due process rights of a person . . . are  
at least as great as the Eighth Amendment protections . . .”).

1 that it “would be odd to deny an injunction to inmates who plainly proved an unsafe, life-  
2 threatening condition in their prison on the ground that nothing yet had happened to  
3 them.”); *see also Sharp v. Weston*, 233 F.3d 1166, 1171 (9th Cir. 2000) (holding that courts  
4 may enforce the Fourteenth Amendment “when there is a substantial departure from  
5 accepted professional judgment or when there has been no exercise of professional  
6 judgment at all.”).

7 Finally, in addition to the protections of the federal Constitution, people with  
8 disabilities are protected by Title II of the Americans with Disabilities Act (the “ADA”),  
9 42 U.S.C. § 12101 *et seq.*, Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C.  
10 § 794, and the Individuals with Disabilities Education Improvement Act (the “IDEA”), 20  
11 U.S.C. § 1400 *et seq.*, and the regulations promulgated thereunder. These statutes protect  
12 the many youth at Los Padrinos with mental health, behavioral, learning, intellectual,  
13 and/or developmental disabilities. Staff routinely punish these children — including by  
14 overuse of isolation, restraint, or chemical weapons — for behavior related to their  
15 disabilities. Due to their disabilities, these youth are especially vulnerable to such punitive  
16 practices and conditions, which exacerbate their mental health conditions and likelihood of  
17 further disciplinary incidents.

18 **B. Probation’s Failure to Adequately Staff Los Padrinos Does Not Excuse Its**  
19 **Violations of Detained Children’s Rights**

20 As a threshold matter, this Court should not countenance any excuses offered by  
21 Probation that minimize or justify the conditions by pointing to vacancies in staff positions,  
22 or employees’ refusal to work at Los Padrinos. Even if Probation truly lacks sufficient  
23 staffed positions, as a legal matter, such excuses ring hollow.

24 Indeed, any failure or difficulties faced by the County officials to fill custody, health  
25 care, educational, or other staff positions at Los Padrinos “illustrates . . . disregard of risk  
26 of harm . . . because systemic and gross deficiencies arising from understaffing have  
27 persisted and effectively denied prisoners access” to adequate care and basic living  
28 conditions. *Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1256 & n.81 (M.D. Ala. 2017) (citing

1 *Taylor v. Adams*, 221 F.3d 1254, 1258 (11th Cir. 2000)). And “difficulties in recruiting do  
2 not negate the fact that understaffing has caused this serious systemic deficiency.” *Id.*; *see*  
3 *also Wellman v. Faulkner*, 715 F.2d 269, 273 (7th Cir. 1983) (holding that the failure of a  
4 prison to fill authorized positions weighs “more heavily against the state than for it”);  
5 *Madrid v. Gomez*, 899 F. Supp. 1146, 1201, 1227 (N.D. Cal. 1995) (holding that  
6 “recruitment difficulties do not excuse compliance with constitutional mandates” and that  
7 the Constitution requires prisons to have “sufficient, qualified” staff who are “properly  
8 trained and supervised.”); *see also Cabrales v. Cnty. of L.A.*, 864 F.2d 1454, 1461 (9th Cir.  
9 1988), *vacated and remanded*, 490 U.S. 1087 (1989), *reinstated*, 886 F.2d 235 (9th Cir.  
10 1989) (concluding that mentally ill detainees in Los Angeles jails went untreated because  
11 the limited number of psychiatric staff permitted only minutes of treatment per month with  
12 each patient).

13 Similarly, any excuses by Probation that staff are not adequately trained or are not  
14 competent to appropriately manage the youth in Los Padrinos does not justify violations of  
15 children’s rights—rather, such excuses are admissions that prove the violations. Carceral  
16 facilities must not only have enough staff, *see Graves v. Arpaio*, 48 F. Supp. 3d 1318, 1335  
17 (D. Ariz. 2014), *amended*, No. CV-77-00479-PHX-NVW, 2014 WL 6983316 (D. Ariz.  
18 Dec. 10, 2014); but such staff must also be “competent to deal with the prisoners’  
19 problems.” *Hoptowit v. Ray*, 682 F.2d 1237, 1253 (9th Cir. 1982), *overruled in part on*  
20 *other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

21 Finally, any protestations that Probation— which has an annual budget of close to  
22 half a billion dollars to incarcerate children — lacks the financial resources to operate the  
23 Los Padrinos facility in accord with legal standards is not only laughable, but legally  
24 unavailing. *See Peralta v. Dillard*, 744 F.3d 1076, 1083 (9th Cir. 2014) (en banc) (holding  
25 that a “[l]ack of resources is not a defense . . . because prison officials may be compelled  
26 to expand the pool of existing resources in order to remedy continuing Eighth Amendment  
27 violations.”) (citations omitted); *Casey v. Lewis*, 834 F. Supp. 1477, 1548 & n.6 (D. Ariz.  
28 1993) (“[b]udgetary constraints are not a defense to liability for deliberate indifference to

1 inmates' serious medical care needs.”).

2 **C. Vague and Unsupported Assertions of “Public Safety” Do Not Justify**  
3 **Continued Violations of Children’s Constitutional Rights**

4 County officials, most recently the Board of Supervisors, have invoked vague fears  
5 of “public safety” as their justification to continue to incarcerate children in Los Padrinos,  
6 even though the BSCC has found it unfit for human habitation. *See* L.A. Bd. of Sups.,  
7 *Motion Proclaiming a Local Emergency Resulting From the Suitability Issues at Los*  
8 *Padrinos Juvenile Hall*, Dec. 17, 2024, at 4 (describing the fear of “extreme peril to the  
9 community” if children are not incarcerated at Los Padrinos);<sup>4</sup> Rebecca Ellis, *L.A. County*  
10 *gives probation chief emergency powers in effort to avoid Los Padrinos closure*, L.A.  
11 Times, (Dec. 19, 2024), at [https://www.latimes.com/california/story/2024-12-17/l-a-](https://www.latimes.com/california/story/2024-12-17/l-a-county-juvenile-hall-los-padrinos-state-of-emergency)  
12 [county-juvenile-hall-los-padrinos-state-of-emergency](https://www.latimes.com/california/story/2024-12-17/l-a-county-juvenile-hall-los-padrinos-state-of-emergency).

13 Although courts recognize that juvenile detention facilities possess legitimate  
14 security concerns, these concerns must be balanced against the constitutionally protected  
15 liberty interests of the youth incarcerated there. *See, e.g., Santana*, 714 F.2d at 1179  
16 (holding that restrictions on a detained youth’s liberty must be “reasonably related to  
17 legitimate government interests in imposing those restrictions”); *Milonas v. Williams*, 691  
18 F.2d 931, 942 (10th Cir. 1982) (“In assessing institutional restrictions, courts must take  
19 into account both the liberty interests of the individual and the legitimate needs of the  
20 institution for order and security.”); *see also Brown*, 563 U.S. at 511 (holding that “[c]ourts  
21 may not allow constitutional violations to continue simply because a remedy would involve  
22 intrusion into the realm of prison administration.”); *Johnson v. Calif.*, 564 U.S. 499, 511  
23 (2005) (“[T]he integrity of the criminal justice system depends on full compliance with the  
24 Eighth Amendment.”).

25 **D. Inadequate Health Care Violates Children’s Rights**

26 The BSCC’s August 12, 2024 Notice of Noncompliance identified deficiencies in  
27 the provision of medical care at Los Padrinos. *See* BSSC, *Initial Inspection Report, 2023-*

28 <sup>4</sup> *See* <https://file.lacounty.gov/SDSInter/bos/supdocs/198568.pdf>.

1 2024 Biennial Inspection Cycle, Los Padrinos Juvenile Hall, at 2, Aug. 12, 2024  
2 (hereinafter “Aug. 12, 2024 BSCC Notice”). The BSCC found that “medical appointments  
3 had been cancelled or rescheduled due to lack of staff” and “youth are being held in their  
4 rooms for long periods of time beyond what policy allows . . . due to lack of staffing  
5 available to transport to the medical module.” *Id.* at 2.

6 Reports by the Los Angeles County Probation Oversight Commission (“the  
7 Oversight Commission”) demonstrate that the County is violating its constitutional  
8 obligation to provide adequate medical and mental health care. The Commission’s 2024  
9 Inspection Report for Los Padrinos, which was completed after a June 2024 inspection,  
10 found that individual mental health therapy was not occurring in private settings. *See* L.A.  
11 Cnty. Probation Oversight Commission, 2024 Annual Inspection Report – Los Padrinos  
12 Juvenile Hall, at 13 (hereinafter “POC 2024 Report”).<sup>5</sup> One commissioner saw a therapy  
13 session occurring in an open hallway during their visit. *Id.* Another therapy session was  
14 observed “in the open day room in earshot of other youth and visitors.” *Id.* at 6.

15 The elements of a minimally adequate correctional health care system under the  
16 Eighth Amendment include:

17 that prison officials provide a system of ready access to adequate medical  
18 care. Prison officials show deliberate indifference to serious medical needs  
19 if prisoners are unable to make their medical problems known to the medical  
20 staff. Access to the medical staff has no meaning if the medical staff is not  
21 competent to deal with the prisoners’ problems. The medical staff must be  
22 competent to examine prisoners and diagnose illnesses. It must be able to  
23 treat medical problems or to refer prisoners to others who can. Such referrals  
24 may be to other physicians within the prison, or to physicians or facilities  
25 outside the prison if there is reasonably speedy access to these other  
26 physicians or facilities. In keeping with these requirements, the prison must  
27 provide an adequate system for responding to emergencies. . . . These  
28 requirements apply to physical, dental and mental health.

25 *Hoptowit*, 682 F.2d at 1253; *see also Brown*, 563 U.S. at 510-11 (“Just as a prisoner may  
26 starve if not fed, he or she may suffer or die if not provided adequate medical care. A prison  
27 that deprives prisoners of basic sustenance, including adequate care, is incompatible with

<sup>5</sup> Available at <https://file.lacounty.gov/SDSInter/bos/supdocs/POC24-0125.pdf>.

1 the concept of human dignity and has no place in civilized society.”); *Gibson v. Cnty. of*  
2 *Washoe*, 290 F.3d 1175, 1196 (9th Cir. 2002) (“When policymakers know that their  
3 medical staff members will encounter those with urgent mental health needs yet fail to  
4 provide for the identification of those needs, it is obvious that a constitutional violation  
5 could well result.”); *Cabrales*, 864 F.2d at 1461 (finding that mentally ill detainees in L.A.  
6 County went untreated because the few psychiatric staff only spent minutes per month with  
7 each patient). Brief, cursory, superficial contacts with mental health staff violate the Eighth  
8 Amendment. *Disability Rights Montana v. Batista*, 930 F.3d 1090, 1094 (9th Cir. 2019)  
9 (complaint alleging, *inter alia*, that prisoners’ “primary contact with mental health staff . . .  
10 last no more than a few minutes” stated an Eighth Amendment claim).

11 **E. Deficient Educational Services and Programming Violates Children’s**  
12 **Rights**

13 Probation and its agent, the L.A. County Office of Education (“LACOE”), are  
14 responsible for providing education to youth in juvenile halls and camps. Cal. Code Regs.,  
15 tit. 15, § 1370; *Butt v. Calif.*, 4 Cal.4th 668, 680 (1992) (“California has assumed specific  
16 responsibility for a statewide public education system open on equal terms to all.”)

17 In 2021, the County and LACOE entered a stipulated judgment with the State of  
18 California’s Department of Justice about the provision of education to youth in Probation’s  
19 care. Among other things, the County committed to the following:

20 LACOE will provide sufficient staffing to ensure that youth are enrolled in  
21 educational instruction and receiving instruction within the period of time  
22 required by law, and are provided with the required 240 minutes of education  
23 per day, except when there is an immediate threat to the safety of the youth  
24 or others, or unless LACOE authorizes an excused absence based on  
categories recognized by state law;

25 The County will ensure that all youth are timely transported to and attending  
26 class on a daily basis, except when there is an immediate threat to the safety  
27 of youth or others, or unless LACOE authorizes an excused absence based  
28 on categories recognized by state law;

[...]



1 The County will ensure that education services are provided in the  
2 classrooms by LACOE and not in the day room on the living units, except  
3 where necessary due to a particularized and documented risk of harm.

4 See Stipulated Judgment, *People v. Cnty of L.A.*, Case No. 21STCV01309 at 7-8 (L.A.  
5 Sup. Ct. Jan. 21, 2021), at [https://oag.ca.gov/system/files/attachments/press-](https://oag.ca.gov/system/files/attachments/press-docs/Court%20Signed%20Stipulated%20Judgment%20-%20LACOE.pdf)  
6 [docs/Court%20Signed%20Stipulated%20Judgment%20-%20LACOE.pdf](https://oag.ca.gov/system/files/attachments/press-docs/Court%20Signed%20Stipulated%20Judgment%20-%20LACOE.pdf).

7 Despite these promises to the State, since then, the BSCC has repeatedly found Los  
8 Padrinos to be noncompliant with Section 1370 of Title 15 of the California Code of  
9 Regulations with its provision of education. Probation has done little to nothing to address  
10 the problem. A BSCC inspection of Los Padrinos in August 2023 found Probation to be  
11 noncompliant because documentation showed an ongoing problem of “youth [] arriving  
12 late to school” and clarified that “Probation must focus on getting youth to school on time.”  
13 BSCC, *2023 Targeted Inspection of Los Padrinos Juvenile Hall*, at 31, Sep. 26, 2023.<sup>6</sup> In  
14 its October 16, 2023, Corrective Action Plan, Probation “recognize[d] youth in its care  
15 have missed school hours,” and committed to “continu[ing] to closely monitor school  
16 attendance and . . . audit[ing] the attendance daily to ensure on-going compliance” no later  
17 than Jan. 10, 2024. BSCC, *L.A. County Probation Dep’t, Los Padrinos Juvenile Hall,*  
18 *Corrective Action Plan* at 13, Oct. 16, 2023.

19 Probation failed to do so. A BSCC inspection from May 9, 2024 found that while  
20 youth were arriving to class on time, teachers and custody staff were arriving late or  
21 dismissing classes early. BSCC, *L.A. Probation Dep’t Inspections – 2024*, at 6, May 24,  
22 2024.<sup>7</sup> A June 5, 2024 BSCC inspection found teachers were continuing to be tardy. BSCC,  
23 *L.A. Probation Dep’t Inspections – 2024*, at 2, June 5, 2024.<sup>8</sup> The Probation Oversight

24 <sup>6</sup> Available at  
25 <https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Padrinos Targeted Inspection 23-24 JH)

26 <sup>7</sup> Available at  
27 <https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Targeted PRO 23-24 JH 5.2024)

28 <sup>8</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos JH Unannounced Inspection PRO 6.5.24)

1 Commission’s 2024 Annual Inspection report highlighted education staffing as a problem  
2 given that there were more temporary educators, 16 substitutes, in comparison with seven  
3 full-time teachers. POC 2024 Report, at 10.

4 A July 2024 BSCC inspection found youth continued to be late and classes were  
5 held in units due to short staffing; one unit’s educational services were delayed 12 out of  
6 the 14 days reviewed. BSCC, *L.A. Probation Dep’t Inspections – 2024*, at 8, Sept., 24,  
7 2024.<sup>9</sup> The same problem of students being late to class or classes being held in units due  
8 to “lack of [Probation] staff. *Id.* at 1. On August 12, 2024, BSCC notified Probation of  
9 additional noncompliance findings, including youth receiving education services in the  
10 housing units instead of an actual classroom. BSCC, *Initial Inspection Report 2023-2024*  
11 *Biennial Inspection Cycle*, at 1, Aug. 12, 2024.<sup>10</sup> Indeed, the BSCC inspection on  
12 September 19-20, 2024, again showed Probation’s ongoing failure in addressing the  
13 problem as youth continued to be late to classes due to “movement issues, staffing issues,  
14 and some teachers’ inability to access gates and buildings/units.”.” BSCC, *L.A. Probation*  
15 *Dep’t Inspections – 2024*, at 5, Sep. 19-20, 2024.<sup>11</sup>

16 Probation also fails to provide rehabilitative programming to children. BSCC found  
17 that logs ostensibly documenting programming activity did not match videos of activity.  
18 BSCC, *L.A. Probation Dep’t, Corrective Action Plan, Los Padrinos Juvenile Hall*, at 1,  
19 Aug. 8, 2024.<sup>12</sup> In many cases, the videos showed that programs listed on the schedule did  
20 not actually occur, or occurred for a different duration of time, than what was documented.  
21 *Id.* BSCC found that youth did not receive “consistent opportunities for programs” meaning

22 <sup>9</sup> Available at  
23 <https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Targeted Inspection PRO 9.19.24 JH)

24 <sup>10</sup> Available at  
25 <https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Targeted Initial Inspection Rpt 23-24 JH).

26 <sup>11</sup> Available at  
27 <https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Juvenile Hall Targeted PRO 9.24 JH).

28 <sup>12</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Juvenile Hall Targeted CAP 23-24 JH)

1 that “some youth will not get their one hour of programming” each day. BSSC, *Initial*  
2 *Inspection Report, 2023-2024 Biennial Inspection Cycle, Los Padrinos Juvenile Hall*, at 1-  
3 2, June 28, 2024.<sup>13</sup> In its July 2024 inspection, the BSCC noted that it observed instances  
4 “where youth did not have access to outdoor recreation or visitation . . . due to lack of  
5 staff.” BSCC, *L.A. Probation Dep’t Inspections – 2024*, at 1, Sept., 24, 2024.<sup>14</sup>

6 On November 8, 2024, the BSCC notified the Los Angeles County Probation  
7 Department that it continued to violate Section 1371 at Los Padrinos. In its explanation of  
8 why Los Padrinos remains out of compliance, the BSCC noted that “programs and exercise  
9 activities continue to not be accurately documented.” BSCC, *Follow Up Letter to L.A.*  
10 *County Probation Dep’t Re: Unresolved Action Plan on Sect. 1371*, at 2, Nov. 8, 2024.  
11 Among the documented problems were: (1) discrepancies between youth signatures on  
12 sign-in sheets and documented program durations on facility schedules, (2) “unit staff  
13 document[ing] youth participating in multiple activities at once,” and (3) overlapping  
14 timeframes that force youth to “choose between programs or between a program and  
15 outdoor exercise” or between eating dinner and a program. *Id.*

16 Numerous courts have held that failing to provide rehabilitative treatment and  
17 services, including appropriate educational services, to detained youth can violate their  
18 rights. *See Peña v. N.Y. State Div. for Youth*, 419 F. Supp. 203, 207 (S.D.N.Y. 1976);  
19 *Alexander S. By & Through Bowers v. Boyd*, 876 F. Supp. 773, 796 (D.S.C. 1995); *see also*  
20 *State ex rel. K.W. v. Werner*, 161 W. Va. 192, 219 (1978) (“The right to access to education,  
21 including instruction, educational materials and books, is a part of the right to rehabilitative  
22 programs which the courts have found to be constitutionally required.”) (citing numerous  
23 cases in support of this position, including *Nelson v. Heyne*, 491 F.2d 352 (7th Cir. 1974),  
24 *Morales v. Turman*, 562 F.2d 993 (5th Cir. 1977), and *Martarella v. Kelley*, 349 F.Supp.

25 \_\_\_\_\_  
26 <sup>13</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
27 name: 7201 Los Angeles Los Padrinos Targeted IIR 23-24)

28 <sup>14</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlClzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Targeted Inspection PRO 9.19.24 JH)

1 575 (S.D.N.Y. 1972), *supplemented*, 359 F. Supp. 478 (S.D.N.Y. 1973)). Accordingly,  
2 denying detained youth access to educational services (or operating programs that fail to  
3 provide meaningful educational opportunity) can violate their constitutional rights.

4         Additionally, the Individuals with Disabilities Education Act (“IDEA”) is a  
5 comprehensive federal statute establishing substantive and procedural requirements that  
6 govern the education of students with disabilities — including incarcerated youth with  
7 disabilities. IDEA provides federal funds to help state and local education agencies meet  
8 their obligation to educate students with disabilities. 20 U.S.C. §§ 1400 *et seq.* As a  
9 condition of receiving these funds, states must enact policies that ensure that every student  
10 with a disability receives a free appropriate public education (“FAPE”). 20 U.S.C. §  
11 1412(a)(1). Agencies ensure the student’s right to FAPE by providing “special education,”  
12 which is specially designed instruction, and “related services.” 20 U.S.C. § 1401(9). States  
13 and their subdivisions must comply with procedures specified in IDEA to identify and  
14 evaluate disabled students, assure appropriate educational placements for disabled  
15 students, and develop and implement an individualized education program (“IEP”) for each  
16 disabled student. 20 U.S.C. § 1414.

17         IDEA and its implementing regulations provide that students with disabilities held  
18 in juvenile detention facilities are entitled to the full substantive and procedural rights and  
19 protections provided by IDEA and recognize no special exceptions for security or  
20 penological concerns that would limit IDEA’s application in juvenile detention settings.  
21 The U.S. Department of Education has confirmed that eligible students held in detention  
22 facilities are entitled to IDEA’s full protections. *See* U.S. Dept. of Educ., Office of Special  
23 Educ. Progs., *Dear Colleague Letter* at 1 (Dec. 5, 2014), *at*  
24 <https://www.ed.gov/sites/ed/files/policy/gen/guid/correctional-education/idea-letter.pdf>  
25 (“Absent a specific exception, all IDEA protections apply to students with disabilities in  
26 correctional facilities.”). Juvenile correctional and educational agencies have agreed to  
27 settlements related to violations of IDEA that required them to expend substantial funds on  
28 compensatory education services and policy reforms. *See G.F. v. Contra Costa County*,

1 No. 13-CV-3667 (N.D. Cal. Aug. 8, 2013) (challenging denial of education services in  
2 isolation unit and seeking compensatory services and programmatic reforms); Settlement  
3 Agreement, *Casey A., supra*, No. 10-CV-00192-GHK-FMOx, (C.D. Cal. May 23, 2011)  
4 (requiring Probation and LACOE to pay for compensatory education services for several  
5 thousand class members, comprehensive programmatic reforms, and \$825,000.00 in  
6 attorney’s fees and expert fees, with a minimum four-year court supervision period);  
7 *Handberry v. Thompson*, 446 F.3d 335 (2d Cir. 2006) (affirming district court order  
8 requiring city to provide comprehensive continuum of care to eligible youth detained in  
9 adult jail); Mem. of Agreement, *United States v. Arkansas*, No. 03-CV-00162 (D. Ark.  
10 Mar. 12, 2003) (requiring overhaul of facility education program after USDOJ  
11 investigation).

12 Finally, under Title 15, Probation shall provide “a *quality* educational program that  
13 includes instructional strategies designed to respond to the different learning styles and  
14 abilities of students.” Cal. Code Regs., tit. 15, § 1370(b) (emphasis added). This means that  
15 “education instruction shall be provided to minors restricted to high security or other  
16 special units” and that “state and federal laws shall be observed for individuals with special  
17 education needs.” *Id.* at § 1370(d). Moreover, “expulsion/suspension from school shall  
18 follow the appropriate due process safeguards including the rights of students with special  
19 needs.” *Id.* at § 1370(c)(3). California state law requires that youth at Los Padrinos receive  
20 a minimum of 240 minutes per day of instruction. Cal. Educ. Code § 48645.3; Cal. Code  
21 Regs., tit. 15, § 1370(b)(4). Only specific youth who attend school and also an approved  
22 vocational education program, specific prescribed work program, or work experience  
23 program, may receive a reduced number of daily instructional minutes (180 minutes instead  
24 of 240 minutes). Cal. Educ. Code § 48645.3

25 In sum, the County must ensure that youth detained at Los Padrinos have access to  
26 legally adequate and appropriate educational services, currently provided by LACOE,  
27 during their incarceration. The County must ensure that youth with disabilities do not  
28 experience discrimination. And Probation must design and implement treatment plans with

1 rehabilitative programming to assist youth in their successful transition back into the  
2 community. None of these obligations are being met.

### 3 **F. The Prolonged Isolation of Children Violates Their Federal Rights**

4 The County is violating the constitutional rights of children incarcerated in Los  
5 Padrinos by subjecting them to excessive and unnecessary isolation.<sup>15</sup> BSCC found Los  
6 Padrinos isolated children for extended periods of time in their rooms. During its July 2024  
7 inspection of Los Padrinos, the BSCC was provided inadequate documentation of room  
8 confinement because the facility failed to document when youth were confined to their  
9 rooms. BSCC, *L.A. Probation Dep't Inspections – 2024*, at 4, Sept., 24, 2024.<sup>16</sup> BSCC's  
10 inspection found that in some units “youth were held in their rooms past the daily schedule”  
11 or were “dining [in their rooms] for breakfast.” *Id.* The BSCC noted that it was “unsure if  
12 this was for staff convenience or due to a lack of staff.” *Id.* In an unannounced inspection  
13 this summer, BSCC discovered “staff who had not been trained and/or could not complete  
14 the proper documentation for room confinement.” BSCC, *Los Angeles Probation*  
15 *Department Inspections – 2024*, at 2, July 1, 2024.<sup>17</sup> This stemmed from a staffing issue.  
16 Staff “reported they were alone in the early morning until additional staff could be brought  
17 in; regular staff from one unit on the PM shift were being pulled to other units due to lack  
18 of staffing elsewhere in the facility, leaving the unit with non-regular staff.” *Id.* One youth  
19 who had been incarcerated at Los Padrinos told the L.A. Times that “there was a time where  
20 we didn't get out of our rooms until close to dinner time . . . being in a cell for that long,  
21 you go ... crazy.” Rebecca Ellis, *As L.A. County juvenile halls become more violent, many*

22 \_\_\_\_\_  
23 <sup>15</sup> Whether the act of physically isolating and locking youth in their cells for  
24 prolonged periods of time outside of nighttime sleeping hours is euphemistically referred  
25 to as “room confinement,” “cell time,” “early bedtime,” “segregation,” “lockdown,” or  
26 some other phrase, it is the functional equivalent of isolation or solitary. *See, e.g., Penal*  
27 *Reform Int'l, Solitary Confinement*, (accessed Dec. 19, 2024),  
28 <https://www.penalreform.org/issues/prison-conditions/key-facts/solitary-confinement>.

<sup>16</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlCIzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Targeted Inspection PRO 9.19.24 JH)

<sup>17</sup> Available at  
<https://drive.google.com/drive/folders/16MKpoiZINKKtmHvlCIzgXPWaZu28rgh5> (File  
name: 7201 Los Angeles Los Padrinos Unannounced Inspection PRO 9.19.24 JH).

1 *officers are skipping work*, L.A. TIMES, June 27, 2024, at  
2 [https://www.latimes.com/california/story/2024-06-27/l-a-county-juvenile-halls-are-so-](https://www.latimes.com/california/story/2024-06-27/l-a-county-juvenile-halls-are-so-violent-that-many-officers-are-skipping-work)  
3 [violent-that-many-officers-are-skipping-work](https://www.latimes.com/california/story/2024-06-27/l-a-county-juvenile-halls-are-so-violent-that-many-officers-are-skipping-work).

4 Virtually every federal court that has to date confronted the issue has found that  
5 even short periods of solitary confinement violate children’s rights under the Eighth and  
6 Fourteenth Amendments. And while the Supreme Court has not yet specifically addressed  
7 the constitutionality of solitary confinement of children, it has repeatedly emphasized that  
8 youth’s vulnerabilities require unique protections and consideration.

9 “A growing chorus of courts have recognized the unique harms that are inflicted on  
10 juveniles when they are placed in solitary confinement.” *J.H. v. Williamson Cnty., Tenn.*,  
11 951 F.3d 709, 718-20 (6th Cir. 2020) (collecting cases). *See, e.g., H.C. ex rel. Hewett v.*  
12 *Jarrard*, 786 F.3d 1080, 1088 (11th Cir. 1986) (describing the emotional harm caused by  
13 isolation of a child, “deprived of virtually every physical or emotional stimulus,” and  
14 noting that “[j]uveniles are even more susceptible to mental anguish than adult convicts”);  
15 *Santana v. Collazo*, 714 F.2d 1172, 1180-83 (1st Cir. 1983) (lack of therapeutic and  
16 disciplinary benefits from isolation); *Milonas v. Williams*, 691 F.2d 931, 942-43 (10th Cir.  
17 1982) (affirming injunction against placing children in isolation for any reason other than  
18 to immediately contain violent behavior); *Nelson v. Heyne*, 491 F.2d 352, 358, 360 (7th  
19 Cir. 1974) (extended periods of solitary confinement of youth at the Indiana Boys School  
20 was cruel and unusual punishment under the Eighth Amendment, and a violation of  
21 procedural due process under the Fourteenth Amendment); *see also Alex A. by & through*  
22 *Smith v. Edwards*, No. CV 22-573-SDD-RLB, 2023 WL 5984280 at \*7 (M.D. La. Sept.  
23 14, 2023) (finding that “cell restriction” for hours or days at a time of youth housed at an  
24 adult prison was “*de facto* solitary confinement in both use and affect” and violated the  
25 Eighth Amendment), *opinion vacated on other grounds, appeal dismissed sub nom. Smith*  
26 *v. Edwards*, 88 F.4th 1119 (5th Cir. 2023); *Jensen v. Thornell*, No. 12-cv-00601, 2023 WL  
27 2838040, at \*27 (D. Ariz. Apr. 7, 2023) (permanent injunction imposing a categorical ban  
28 on the use of solitary confinement in adult prisons for youth convicted as adults); *V.W. ex*

1 *rel. Williams v. Conway*, 236 F. Supp. 3d 554, 588-89 (N.D.N.Y. 2017) (“[D]efendants’  
2 continued use of solitary confinement on juveniles puts them at serious risk of short- and  
3 long-term psychological damage”); *Doe ex rel. Frazier v. Hommrich*, No. 3-16-0799, 2017  
4 WL 1091864, at \*12 (M.D. Tenn. Mar. 22, 2017) (enjoining “placing juveniles in solitary  
5 confinement or otherwise isolating them from meaningful contact with their peers as  
6 punishment or discipline”); *Turner v. Palmer*, 84 F. Supp. 3d 880, 884 (S.D. Iowa 2015)  
7 (allegation that 16-year-old plaintiff “spent numerous consecutive weeks locked in small  
8 cement isolation cells with only a thin mat to sleep on and was only allowed to leave to use  
9 the restroom” stated a constitutional claim); *R.G. v. Koller*, 415 F. Supp. 2d 1129, 1155 (D.  
10 Haw. 2006) (finding the state juvenile facility’s practice of isolating LGBT teenagers in  
11 solitary confinement ostensibly for their “protection” violated the minors’ rights, and  
12 collecting cases); *D.B. v. Tewksbury*, 545 F. Supp. 896, 905 (D. Or. 1982) (holding that  
13 “[p]lacement of younger children in isolation cells as a means of protecting them from  
14 older children” violated the Fourteenth Amendment); *Feliciano v. Barcelo*, 497 F. Supp.  
15 14, 35 (D.P.R. 1979) (“Solitary confinement of young adults is unconstitutional.”); *Morgan*  
16 *v. Sproat*, 432 F. Supp. 1130, 1138-40 (S.D. Miss. 1977) (relying on expert testimony of  
17 harm to conclude that confining youth for an average of 11 days, with time out of their  
18 cells only for recreation and showers, violates the Eighth Amendment); *Inmates of the*  
19 *Boys’ Training Sch. v. Affleck*, 346 F. Supp. 1354, 1372 (D.R.I. 1972) (finding the isolation  
20 of youth in cold, dark isolation cells containing only a toilet and a mattress constituted cruel  
21 and unusual punishment and violated the Due Process Clause); *Lollis v. N.Y. State Dep’t*  
22 *of Soc. Servs.*, 322 F. Supp. 473, 480 (S.D.N.Y. 1970) (concluding that juvenile plaintiff’s  
23 solitary confinement was unconstitutional after considering extensive expert testimony  
24 stating that the extended use of isolation on children is “cruel and inhuman,” and  
25 “counterproductive to the development of the child.”).

26 Moreover, in 2016, the federal government eliminated the use of solitary  
27 confinement of youth in federal custody. *See V.W. ex rel. Williams v. Conway*, 236 F. Supp.  
28 3d 554, 584 (N.D.N.Y. 2017) (“[T]he federal government and at least 21 states have



1 prohibited the use of disciplinary segregation for juveniles . . . .”<sup>18</sup> In 2023, the U.S.  
2 Department of Justice filed two Statements of Interest in ongoing litigation, reasserting the  
3 federal government’s position that the use of solitary confinement on children was harmful  
4 and violated the Constitution. *See* Statement of Interest of the United States of America,  
5 *J.B.H. v. Cavanaugh*, Case No. 24-cv-04096 (C.D. Ill. Oct. 24, 2024), Dkt. 38; Statement  
6 of Interest of the United States of America, *Alex A. by & through Smith v. Edwards*, No.  
7 CV 22-573-SDD-RLB (M.D. La. Aug. 1, 2023), Dkt. 183. More than half of U.S. states,  
8 including California, have laws limiting solitary confinement of children. *See*, Cal. Welf.  
9 & Inst. Code § 208.3(c) (limiting room confinement to no more than four hours); *Graham*,  
10 560 U.S. at 62 (state legislation is evidence of standards of decency) (citations omitted).

### 11 **G. Excessive Use of Chemical Spray Violates Children’s Rights**

12 Staff at Los Padrinos routinely and excessively deploy oleoresin capsicum (“OC”)  
13 spray — known also as “pepper spray” — on youth at the facility. Probation leadership  
14 told the Oversight Commission in June 2024 that “there was no known plan to phase out  
15 or eliminate the spray or to implement strategies to reduce the use of prevent the need for  
16 OC spray” and “OC spray was a critical intervention tool.” POC 2024 Report at 18.

17 This continued overreliance on OC spray at Los Padrinos is especially shocking,  
18 given it was one of the areas focused on by the U.S. Department of Justice (“USDOJ”) in  
19 its litigation against Probation over two decades ago. In 2000, USDOJ initiated an  
20 investigation into the conditions of the County’s juvenile facilities, pursuant to its authority  
21 under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, and 42 U.S.C.  
22 § 14141. In 2003, USDOJ issued a findings letter that determined that Probation’s use of  
23 chemical agents likely violated detained children’s constitutional rights and threatened to  
24 sue the County.<sup>19</sup> L.A. County and USDOJ entered into a settlement in 2008 requiring the

25 <sup>18</sup> *See* Barack Obama, *Why We Must Rethink Solitary Confinement*, WASH. POST.  
26 (Jan. 25, 2016), at [https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce\\_story.html](https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html).

27 <sup>19</sup> U.S. Department of Justice, Letter from Ralph F. Boyd to Yvonne B. Burke,  
28 (April 9, 2003), at 20-23, available at

(cont’d)

1 County to set new policies on the use of pepper spray. Specifically, it required that

2 The County shall develop and implement policies, procedures, and practices  
3 to restrict use of oleoresin capsicum (OC) spray to appropriate  
4 circumstances, enable supervisors to maintain appropriate controls over  
5 spray use and storage, restrict the carrying of OC spray to only those  
6 individuals who need to carry and use it, prevent wherever possible the use  
of OC spray on populations for whom its use is contraindicated or contrary  
to doctors' instructions, and ensure that decontamination occurs properly.

7 MOA at ¶ 11, at <https://www.clearinghouse.net/chDocs/public/JI-CA-0025-0002.pdf>.

8 In 2012, USDOJ found the County to be in substantial compliance with the  
9 settlement. Unfortunately, after the County exited from USDOJ oversight, the documented  
10 inappropriate use of pepper spray increased. A December 6, 2016 report by the County  
11 Auditor-Controller found that in 22% of cases reviewed, pepper spray was used in a manner  
12 not permitted by policy. And a February 2019 Office of Inspector General Report found  
13 that from 2015 to 2017, the use of OC spray in Probation's juvenile halls had skyrocketed.  
14 County of Los Angeles, Office of Inspector General, *Report Back on Ensuring Safety and*  
15 *Humane Treatment in the County's Juvenile Justice Facilities*, at 3, at  
16 [https://oig.lacounty.gov/Portals/OIG/Reports/Probation\\_Report\\_1.pdf?ver=2019-02-05-](https://oig.lacounty.gov/Portals/OIG/Reports/Probation_Report_1.pdf?ver=2019-02-05-081601-153)  
17 [081601-153](https://oig.lacounty.gov/Portals/OIG/Reports/Probation_Report_1.pdf?ver=2019-02-05-081601-153). The OIG concluded that:

18 Some incidents reviewed include uses of OC spray that likely violate  
19 Department policies, at times involving youth who appeared only passively  
20 noncompliant. In several incidents, the use-of-force reports filed by staff  
21 described youth behaviors as aggressive or threatening, even when available  
22 video footage showed that youth appeared to pose no threat to staff. Other  
incidents involved staff who used OC spray before any attempts to use other,  
less significant force techniques.

23 [...] In some incidents reviewed, OC spray was used on youth who, under  
24 the Department's [] policy, should not have been subject to OC spray unless  
25 all other alternatives to gain compliance had first been exhausted. The OIG  
26 reviewed incidents in which youth with identified respiratory conditions and  
youth taking psychotropic medications were subjects of OC spray. In one  
27 incident reviewed, a youth with a mental health condition was engaging in

28 [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/la\\_county\\_juvenile\\_findlet.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/la_county_juvenile_findlet.pdf).

1 self-harming behavior, and was OC sprayed in the groin and buttocks.  
2 Following the use of OC spray, the youth was left in a room, which  
3 apparently lacked running water, for approximately 20 minutes before being  
4 decontaminated.

5 *Id.* at 5-6. The OIG Report also detailed that Probation staff fail to issue proper warnings  
6 before deploying pepper spray, *id.* at 7-8; bystander children and staff were often exposed  
7 to pepper spray, *id.* at 8; there were “improper decontamination practices that may increase  
8 the discomfort that follows OC spray” and multiple “failures to timely and effectively  
9 decontaminate youth after OC exposure.” *Id.* at 8-9. The OIG identified “insufficient use-  
10 of-force policies, training, reporting, and accountability practices.” *Id.* at 12.

11 As a result of that OIG Report, the Board of Supervisors passed a resolution in 2019  
12 to limit the use of chemical sprays in the halls and camps. And in December 2022, the  
13 Board voted unanimously to ban its use within 45 days at the Central Juvenile Hall. See  
14 Rebecca Ellis, *L.A. County supervisors vote to ban pepper spray in some Juvenile Hall*  
15 *units*, L.A. TIMES (Dec. 20, 2022), at [https://www.latimes.com/california/story/2022-12-](https://www.latimes.com/california/story/2022-12-20/la-county-pepper-spray)  
16 [20/la-county-pepper-spray](https://www.latimes.com/california/story/2022-12-20/la-county-pepper-spray).

17 Yet children at Los Padrinos continue to be subject to chemical spray, as frequently  
18 as daily. Jason Henry, *Pepper spray still used every day in LA County juvenile halls, despite*  
19 *supervisors’ orders to stop*, L.A. DAILY NEWS (July 10, 2024), at  
20 [https://www.dailynews.com/2024/07/07/pepper-spray-still-used-every-day-in-la-county-](https://www.dailynews.com/2024/07/07/pepper-spray-still-used-every-day-in-la-county-juvenile-halls-despite-supervisors-orders-to-stop)  
21 [juvenile-halls-despite-supervisors-orders-to-stop](https://www.dailynews.com/2024/07/07/pepper-spray-still-used-every-day-in-la-county-juvenile-halls-despite-supervisors-orders-to-stop). In the 281 days between July 29, 2023 to  
22 May 5, 2024, officers deployed pepper spray against youth 355 times— more than once  
23 per day. *Id.* In that same period, **46 youth with developmental disabilities “were listed as**  
24 **receiving injuries” during pepper spray incidents.** *Id.*

25 California is one of only a handful of states that still allow the use of chemical agents  
26 such as OC spray on children in detention facilities; accordingly the caselaw about the  
27 constitutionality of its use on youth is sparse. That said, in *Alexander S. v. Boyd*, the federal  
28 court for the District of South Carolina wrote,

The court finds that the use of CS [chemical spray] gas upon juveniles is

1 counterproductive. It causes more anger in the juveniles toward the adults  
2 who are supposed to be caring for them. The use of gas as a form of  
3 punishment teaches the victims to inflict pain as a method of controlling  
4 others and makes the juveniles more volatile, more aggressive, and less likely  
5 to respond properly to authority figures. Moreover, the inappropriate use of  
6 CS gas may cause long-term medical complications for the juveniles. For  
7 these reasons, the court concludes that the indiscriminate use of CS gas  
8 violates the juveniles’ constitutional rights under the Due Process Clause.  
9 Based upon the testimony presented on this issue, the court finds that gas  
10 should be used only when a genuine risk of serious bodily harm to another  
11 exists and other less intrusive methods of restraint are not reasonably  
12 available.

13 876 F. Supp. 773, 786 (D.S.C. 1995), *as modified on denial of reh’g* (Feb. 17, 1995).

14 Similarly, more than four decades ago, a federal court found that the use of chemical  
15 agents in Texas Youth Council facilities “in situations not posing an imminent threat to  
16 human life or an imminent and substantial threat to property – but merely as a form of  
17 punishment — constitutes cruel and unusual punishment in violation of the eighth  
18 amendment.” *Morales v. Turman*, 364 F. Supp. 166, 173-74 (E.D. Tex. 1973) (citation  
19 omitted); *see also Thomas v. Bryant*, 614 F.3d 1288, 1310-11 (11th Cir. 2010) (use of  
20 chemical agents on adult prisoners with mental illness violates Eighth Amendment).<sup>20</sup>

#### 21 **H. The Misuse of Mechanical Restraints Violates Children’s Rights**

22 The County is also violating the rights of youth in Los Padrinos by excessive and  
23 unnecessary use of mechanical restraints. Improper use of handcuffs and/or shackles  
24 violates children’s Fourteenth Amendment rights. *Youngberg*, 457 U.S. at 316 (Fourteenth  
25 Amendment provides a right of “freedom from unreasonable bodily restraint”); *Kingsley*,  
26 *supra*, 576 U.S. at 398; *Alexander S.*, 876 F.Supp. at 797-98 (“[T]he Due Process clause  
27 guarantees to juveniles who are incarcerated the right to . . . freedom from unreasonable  
28 bodily restraint”).

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<sup>20</sup> In *United States v. Neill*, 166 F.3d 943, 949-50 (9th Cir. 1999), the Ninth Circuit held it was acceptable to enhance a defendant’s criminal sentence for using OC spray in robberies because, “**pepper spray is capable of inflicting death or serious bodily injury and therefore satisfies the requirements of a dangerous weapon**,” as it “cause[s] extreme pain and prolonged impairment of a bodily organ...” (emphasis added). In a different case, the Ninth Circuit “rejected the contention that the use of pepper spray is a minimal intrusion, due to the immediacy and uncontrollable nature of the pain involved.” *Nelson v. City of Davis*, 685 F.3d 867, 876 (9th Cir. 2012) (citations omitted).

1 BSCC reported the improper use of mechanical restraints on children, in violation  
2 of the Constitution and Title 15 § 1358.5, which requires individualized assessment of the  
3 need, consideration of less restrictive alternatives, consideration of a youth’s medical or  
4 mental health conditions, and supervisor review and approval, which are all essential to  
5 preventing such harm. 2024 Corrective Action Plan at 10.

6 **I. Probation Staff’s Failure to Protect Children From Harm and Violence**  
7 **Violates Their Rights**

8 Probation has a sordid history of failures to protect children in their care from  
9 violence from others. Most shockingly, in April 2024 the L.A. Times obtained footage  
10 which showed a December 2023 incident where Probation staff could be seen on video  
11 standing around and allowing at least six youths to hit and kick a 17-year-old at Los  
12 Padrinos in what appeared to be a gladiator-style fight, orchestrated and sanctioned by  
13 Probation staff.<sup>21</sup> See James Queally and Rebecca Ellis, *Video shows L.A. probation*  
14 *officers letting group beat teen in Los Padrinos juvenile hall*, L.A. TIMES, April 12, 2024,  
15 at [https://www.latimes.com/california/story/2024-04-12/video-shows-l-a-probation-](https://www.latimes.com/california/story/2024-04-12/video-shows-l-a-probation-officers-letting-group-beat-teen-in-los-padrinos-juvenile-hall)  
16 [officers-letting-group-beat-teen-in-los-padrinos-juvenile-hall](https://www.latimes.com/california/story/2024-04-12/video-shows-l-a-probation-officers-letting-group-beat-teen-in-los-padrinos-juvenile-hall). The video led to the  
17 suspension of eight officers in January, but Probation steadfastly declined to answer any  
18 questions about the incident, only asserting it had taken “swift action.” James Queally,  
19 Rebecca Ellis, and Richard Winton, *8 L.A. County probation officers placed on leave for*  
20 *allegedly allowing beatdown at Los Padrinos*, L.A. TIMES, Jan. 11, 2024, at  
21 [https://www.latimes.com/california/story/2024-01-11/eight-probation-officers-placed-on-](https://www.latimes.com/california/story/2024-01-11/eight-probation-officers-placed-on-leave-after-incident-at-los-padrinos)  
22 [leave-after-incident-at-los-padrinos](https://www.latimes.com/california/story/2024-01-11/eight-probation-officers-placed-on-leave-after-incident-at-los-padrinos). Reports suggest Probation placed at least four more  
23 officers on leave in April 2024 for standing by and possibly organizing fights among youth.  
24 Jason Henry, *4 more LA County probation officers placed on leave over juvenile hall*  
25 *violence*, ORANGE COUNTY REGISTER, May 1, 2024, at  
26 [https://www.ocregister.com/2024/04/26/4-more-la-county-probation-officers-placed-on-](https://www.ocregister.com/2024/04/26/4-more-la-county-probation-officers-placed-on-leave-over-juvenile-hall-violence/)  
27 [leave-over-juvenile-hall-violence/](https://www.ocregister.com/2024/04/26/4-more-la-county-probation-officers-placed-on-leave-over-juvenile-hall-violence/). Probation stated the suspensions were “part of a

28 <sup>21</sup> The youth’s public defender reported that her client, who was injured, did not receive medical treatment for several days after the fights occurred.

1 comprehensive push to root out departmental staff responsible for perpetrating a culture of  
2 violence, drugs, or abuse” at the facility. L.A. Cnty. Probation, *Probation Puts Four More*  
3 *Officers on Leave at Los Padrinos Juvenile Hall After Finding Additional Incidents of*  
4 *Youth-On-Youth Violence*, Apr. 26, 2024, at [https://probation.lacounty.gov/  
5 lacountyprobationputsfourmoreofficersonleaveatlospadrinos](https://probation.lacounty.gov/lacountyprobationputsfourmoreofficersonleaveatlospadrinos).

6 There has been no other information made public about whether there was more  
7 investigation to determine the extent of “gladiator fight clubs,” or the harm such fights  
8 inflicted on children. The Oversight Commission’s 2024 Report noted that “youth from  
9 various units were observed throughout the day with obvious signs of injuries including  
10 casts for broken and fractured hands and arms, swollen, bruised eyes, and other facial  
11 bruising.” POC 2024 Report, at 1. Youth interviewed by the Oversight Commission said  
12 “they did not think the institution was meant for rehabilitation” and “they lived with a  
13 constant threat of violence.” *Id.* at 5.

14 It is long-settled law that government officials must take reasonable measures to  
15 protect incarcerated people from assault by other incarcerated people. *See Kingsley*, 576  
16 U.S. at 399 (Fourteenth Amendment claims involving violence against a detainee only  
17 needs analysis under the objective prong of deliberate indifference). Controlling Ninth  
18 Circuit precedent, in a case involving L.A. County, held that

19 *Kingsley* applies, as well, to failure-to-protect claims brought by pretrial  
20 detainees against individual defendants under the Fourteenth Amendment.  
21 Excessive force applied directly by an individual jailer and force applied by  
22 a fellow inmate can cause the same injuries, both physical and constitutional.  
23 Jailers have a duty to protect pretrial detainees from violence at the hands of  
other inmates, just as they have a duty to use only appropriate force  
themselves.

24 *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1070 (9th Cir. 2016)

25 Courts have found violations of the Constitution when employees actively permit  
26 or encourage a prisoner-on-prisoner assault, or stand by and do nothing to stop an assault.  
27 *See, e.g., Farmer*, 511 U.S. at 833, 834-47 (failure to protect plaintiff from beatings and  
28 sexual assaults); *Clem v. Lomeli*, 566 F.3d 1177, 1181-82 (9th Cir. 2009) (jury in assault

1 case should have been instructed that defendants’ failure to act, as well as acting, could  
2 support a finding of deliberate indifference under the Eighth Amendment); *Hearns v.*  
3 *Terhune*, 413 F.3d 1036, 1041-42 (9th Cir. 2005) (prison staff told incarcerated people that  
4 the plaintiff must be killed); *Cantu v. Jones*, 293 F.3d 839, 844-45 (5th Cir. 2002)  
5 (defendants not entitled to immunity when they “essentially orchestrated the attack”);  
6 *Johnson v. Johnson*, 385 F.3d 503, 526-27 (5th Cir. 2004) (allegation that prison officials,  
7 told of multiple rapes of plaintiff, took no action to protect him from future assaults, and  
8 told him to “learn to f\*\*\* or fight,” stated an Eighth Amendment claim); *Odom v. South*  
9 *Carolina Dep’t of Corrs.*, 349 F.3d 765, 772 (4th Cir. 2003) (failure to act); *Leary v.*  
10 *Livingston Cnty. Jail*, 528 F.3d 438, 442 (7th Cir. 2008); *Snider v. Dylag*, 188 F.3d 51, 55  
11 (2d Cir. 1999); *Northington v. Jackson*, 973 F.3d 1518, 1525 (10th Cir. 1992); *Glover v.*  
12 *Ala. Dep’t of Corrs.*, 734 F.2d 691, 693-94 (11th Cir. 1984) (affirming liability of official  
13 who publicly offered a reward for assaulting the plaintiff), *cert. granted, vacated, and*  
14 *remanded on other grounds*, 474 U.S. 806 (1985). This is also the case when assaults  
15 occurred from a failure to adequately supervise people due to insufficient staff. *Krein v.*  
16 *Norris*, 309 F.3d 487, 489-91 (8th Cir. 2002) (only one guard for three barracks of 150  
17 prisoners supported an Eight Amendment claim); *Lopez v. LeMaster*, 172 F.3d 756, 762  
18 (10th Cir. 1999) (staffing deficiencies and supervision leading to assault violated the  
19 Constitution).

20 **II. THE CONDITIONS AT LOS PADRINOS CAUSE LASTING DAMAGE TO**  
21 **CHILDREN DUE TO THEIR AGE AND VULNERABILITIES, AND**  
22 **DISPROPORTIONATELY INJURE YOUTH OF COLOR**

23 **A. Undisputed Social Science and Medical Research Shows the Vulnerability**  
24 **of Children to the Harsh Conditions at Los Padrinos**

25 As noted above, “children cannot be viewed simply as miniature adults,” *J.D.B.*,  
26 564 U.S. at 271. This proposition is rooted in a robust body of research that children differ  
27 from adults both psycho-socially and neurologically, so that they are less blameworthy,  
28 more susceptible to negative peer pressures, and more likely to change and rehabilitate

1 given the transient nature of childhood and adolescence. *Miller*, 567 U.S. at 471-72.

2 Teenagers’ brains are particularly vulnerable to damage from negative experiences  
3 such as resource deprivation or harsh and coercive relationships. Nat’l Acads. of Scis.,  
4 Eng’g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth*, at 58  
5 (Bonnie & Backes, eds., 2019), <https://doi.org/10.17226/25388>. Exposure to trauma during  
6 childhood increases rates of psychological disorders, substance abuse and dependence, and  
7 the likelihood of high-risk behaviors and reoffending as coping mechanisms. U.S. Dep’t of  
8 Just., Nat’l Inst. of Just., *Youth Victimization: Prevalence and Implications* at 1 (2003),  
9 <https://www.ojp.gov/pdffiles1/nij/194972.pdf>; Isaiah B. Pickens *et al.*, Nat’l Child  
10 Traumatic Stress Network, *Victimization and Juvenile Offending* 4-6 (2016).

### 11 **1. The Impact of Solitary Confinement on Children**

12 The science is clear that for both adults and children, being incarcerated in solitary  
13 or isolated confinement can produce a number of negative psychological effects and places  
14 incarcerated people at significant risk of serious psychological harm. *See* Craig Haney, *The*  
15 *Psychological Effects of Solitary Confinement: A Systematic Critique*, 47 *Crime & Just.*  
16 365, 367 (2018); Haney, Expert Report, *Alex A. et al. v. Edwards, et al.*, 3:22-cv-00573  
17 (M.D. La. July 18, 2023), ECF 166-6 (describing in detail the harms of solitary  
18 confinement on youth in case where court enjoined incarcerating youth adjudicated  
19 delinquent in the former death row cells in the adult Louisiana State Penitentiary-Angola).

20 For youth, this risk of harm is even greater because of their scientifically well-  
21 established vulnerability; unlike adults, adolescents are at especially formative stages in  
22 their lives and are in the process of ongoing social, psychological, and physiological  
23 development. Solitary confinement holds unique harm for children, whose “normative  
24 maturation process takes place in the context of family, peers and community.” *Hum. Rts.*  
25 *For Kids, Crimes Against Humanity: The Mass Incarceration of Children in the United*  
26 *States* 23 (2023), [https://humanrightsforkids.org/wp-content/uploads/Human-Rights-For-](https://humanrightsforkids.org/wp-content/uploads/Human-Rights-For-Kids-Crimes-Against-Humanity-The-Mass-Incarceration-of-Children-in-the-US.pdf)  
27 [Kids-Crimes-Against-Humanity-The-Mass-Incarceration-of-Children-in-the-US.pdf](https://humanrightsforkids.org/wp-content/uploads/Human-Rights-For-Kids-Crimes-Against-Humanity-The-Mass-Incarceration-of-Children-in-the-US.pdf).

28 Research from the U.S. Department of Justice’s Office of Juvenile Justice and



1 Delinquency Prevention (OJJDP) also shows that the isolation of youth in a locked room  
2 or cell is a strong risk factor for suicide. This research found that half of youth who  
3 committed suicide in juvenile facilities across the country were in isolation at the time of  
4 their death and more than 60% percent of young people who committed suicide in detention  
5 had a history of being held in isolation. Lindsay Hayes, *Juvenile Suicide in Confinement,*  
6 *A National Survey*, U.S. Dep’t of Just., Off. of Juv. Just. Delinquency & Prevention, 2009,  
7 at vii, at <https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf>. Of the children in secure  
8 juvenile detention centers, **40% of suicides occurred within the first 72 hours.** *Id.*<sup>22</sup>

9 In addition, the risk of serious psychological harm is further heightened for youth  
10 with mental illness or adverse childhood experiences and histories of trauma.<sup>23</sup> For children  
11 whose coping mechanisms are less well-developed, with limited ability to discern and  
12 control their emotional reactions, and whose personal identities are less stable and more  
13 influenced by surrounding circumstances, isolation is likely to be especially harmful and  
14 dangerous. Research shows that solitary confinement increases the risk of certain mental  
15 health issues, including paranoia, impulse control issues, depression, anxiety, post-  
16 traumatic stress disorder, and psychosis. Kayla James & Elena Vanko, Vera Inst. of Just.,  
17 *The Impacts of Solitary Confinement* (2021) at 2;<sup>24</sup> see also Stuart Grassian, *Psychiatric*  
18 *Effects of Solitary Confinement*, 22 WASH. U. J. L. & POL’Y 325, 327-338 (2006); Sharon

19 <sup>22</sup> In 2012, the U.S. Department of Justice reported that::

20 Nowhere is the damaging impact of incarceration on vulnerable children  
21 more obvious than when it involves solitary confinement. A 2002  
22 investigation by the U.S. Department of Justice showed that juveniles  
23 experience symptoms of paranoia, anxiety, and depression even after very  
short periods of isolation. Confined youth who spend extended periods  
isolated are among the most likely to attempt or actually commit suicide.

24 Robert L. Listenbee, Jr., *Report of the Attorney General’s National Task Force on*  
*Children Exposed to Violence*, 178 (Dec. 12, 2012), at  
25 [www.justice.gov/defendingchildhood/cev-rpt-full.pdf](http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf).

26 <sup>23</sup> Craig Haney, *Criminality in Context: The Psychological Foundations of Criminal*  
*Justice Reform*, Washington, D.C.: APA Books (2020), at 153 (majority of incarcerated  
27 youth have experienced numerous adverse childhood experiences, incarceration and  
solitary confinement create compounding effects of trauma, and repeated trauma  
experiences “can adversely affect their entire life course.”).

28 <sup>24</sup> See [https://www.vera.org/downloads/publications/the-impacts-of-solitary-](https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf)  
[confinement.pdf](https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf).

1 Shalev, Mannheim Ctr. for Criminology, London Sch. of Econ. & Pol. Sci., *A Sourcebook*  
2 *on Solitary Confinement* 15-17 (2008), <https://perma.cc/2FHE-BKMX>.

3 The physical health consequences of isolation are many. For example, “[p]eople in  
4 solitary can experience heart palpitations, insomnia, shaking, weakness, deterioration of  
5 eyesight, sensory hypersensitivity, and aggravation of preexisting medical problems,” and  
6 have been shown to suffer from rates of hypertension “almost three times higher than for  
7 those held in maximum-security general population units.” James & Vanko, *supra*, at 3  
8 (citations omitted).

9 Because solitary confinement is so widely recognized as inflicting grave mental and  
10 physical health harm—especially on children—dozens of professional organizations,  
11 experts, and practitioners have publicly denounced or adopted formal position statements  
12 against solitary for children. These include the American Academy of Child and  
13 Adolescent Psychiatry,<sup>25</sup> American Academy of Pediatrics,<sup>26</sup> American Public Health  
14 Association,<sup>27</sup> American Psychiatric Association,<sup>28</sup> National Partnership for Juvenile  
15 Services,<sup>29</sup> Council of Juvenile Justice Administrators,<sup>30</sup> National Commission on  
16 Correctional Health Care,<sup>31</sup> and the National Council of Juvenile and Family Court

17  
18 <sup>25</sup> Am. Acad. of Child and Adolescent Psychiatry, *Solitary Confinement of*  
19 *Juvenile Offenders*, (Apr. 2012),  
[https://www.aacap.org/aacap/Policy\\_Statements/2012/Solitary\\_](https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx)  
20 [Confinement of Juvenile Offenders.aspx](https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx).

21 <sup>26</sup> Alyson Sulaski Wyckoff, *Reduce or Eliminate Restrictive Housing for Youth:*  
22 *AAP Endorsement*, Am. Acad. of Pediatrics (Oct. 25, 2021), [https://publications.aap.org/](https://publications.aap.org/aapnews/news/17444/Reduce-or-eliminate-restrictive-housing-for-youths)  
23 [aapnews/news/17444/Reduce-or-eliminate-restrictive-housing-for-youths](https://publications.aap.org/aapnews/news/17444/Reduce-or-eliminate-restrictive-housing-for-youths).

24 <sup>27</sup> Am. Pub. Health Ass’n, *Solitary Confinement as a Public Health Issue*, (Nov. 5,  
25 2013), [https://www.apha.org/policies-and-advocacy/public-health-policy-statements/](https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/14/13/30/solitary-confinement-as-a-public-health-issue)  
26 [policy-database/2014/07/14/13/30/solitary-confinement-as-a-public-health-issue](https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/14/13/30/solitary-confinement-as-a-public-health-issue).

27 <sup>28</sup> Am. Psychiatric Ass’n, *News Release: Incarcerated Juveniles Belong in Juv.*  
28 *Facilities*, (Feb. 27, 2009), [https://www.njjn.org/uploads/digital-](https://www.njjn.org/uploads/digital-library/resource_1050.pdf)  
29 [library/resource\\_1050.pdf](https://www.njjn.org/uploads/digital-library/resource_1050.pdf).

30 Nat’l Partnership for Juv. Servs., *Position Statement: Use of Isolation*, (Oct. 20,  
31 2014), [https://irp.cdn-website.com/45a58767/files/uploaded/2014%20-](https://irp.cdn-website.com/45a58767/files/uploaded/2014%20-%20Use%20of%20Isolation.pdf)  
32 [%20Use%20of%20Isolation.pdf](https://irp.cdn-website.com/45a58767/files/uploaded/2014%20-%20Use%20of%20Isolation.pdf).

33 <sup>30</sup> Council of Juv. Corr. Adm’rs, *Toolkit: Reducing the Use of Isolation* 5-6  
34 (2015), [https://cjjn.net/wp-content/uploads/2022/04/CJCA-Toolkit-Reducing-the-Use-of-](https://cjjn.net/wp-content/uploads/2022/04/CJCA-Toolkit-Reducing-the-Use-of-Isolation-1.pdf)  
35 [Isolation-1.pdf](https://cjjn.net/wp-content/uploads/2022/04/CJCA-Toolkit-Reducing-the-Use-of-Isolation-1.pdf).

36 <sup>31</sup> Nat’l Comm’n on Corr. Health Care, *Position Statement: Solitary Confinement*  
37 *(Isolation)*, (Apr. 2016), [https://www.ncchc.org/position-statements/solitary-](https://www.ncchc.org/position-statements/solitary-confinement-isolation-2016/)  
38 [confinement-isolation-2016/](https://www.ncchc.org/position-statements/solitary-confinement-isolation-2016/).

1 Judges.<sup>32</sup> Model juvenile detention facility standards permit isolation only as a brief  
2 emergency intervention when youth behavior threatens immediate physical harm, and  
3 when youth cease to pose such a risk, staff must release them from isolation immediately.<sup>33</sup>

## 4 **2. The Use of Chemical Agents on Developing Bodies of Youth**

5 As noted above, California is one of a few states that permit the use of chemical  
6 agents in juvenile facilities, and one of only five states that allow juvenile detention and  
7 correctional staff to carry chemical spray canisters on their person.<sup>34</sup> That said, in recent  
8 years many California counties, including Sacramento, Santa Clara, Santa Cruz, Marin,  
9 and San Francisco Counties, have prohibited staff from carrying or using OC spray in their  
10 juvenile facilities, and instead focus on non-punitive de-escalation techniques to manage  
11 difficult adolescent behaviors. *See supra* Part I.G. (L.A. County’s failed attempts to ban  
12 pepper spray in juvenile camps and detention centers).

13 Pepper spray is especially harmful for children whose bodies are still developing,  
14 and for people with mental illness. According to the CJCA, it “incapacitates subjects by  
15 inducing an almost immediate burning sensation of the skin and burning, tearing, and  
16 swelling of the eyes. When it is inhaled, the respiratory tract is inflamed, resulting in a  
17 swelling of the mucous membranes...and temporarily restricting breathing to short,  
18 shallow breaths.” *See also Clement v. Gomez*, 298 F.3d 898 (9th Cir. 2002) (describing  
19 effects of pepper spray on adult prisoners).

20 Research suggests that “children are more vulnerable to severe injuries” from  
21 exposure to chemical agents like mace, the effects of which can include injuries to multiple  
22 body systems, permanent disability (such as blindness and the loss of limb function), and  
23 persistent psychological symptoms. Rohini J. Haar & Vincent Iacopino, Physicians for  
24

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25 <sup>32</sup> Nat’l Council of Juv. & Fam. Ct. Judges, *NCJFCJ Resolves to Reduce the Use*  
26 *of Solitary Confinement for Youth*, (Sept. 20, 2016), <https://www.ncjfcj.org/news/ncjfcj-resolves-to-reduce-the-use-of-solitary-confinement-for-youth/>.

27 <sup>33</sup> Annie E. Casey Foundation, Juv. Det. Alts. Initiative, *Juvenile Detention*  
28 *Facility Assessment: 2014 Update* 177 (2014), at  
<https://assets.aecf.org/m/resourcedoc/aecfjuveniledetentionfacilityassessment-2014.pdf>.

<sup>34</sup> Council of Juv. Corr. Admins., *Pepper Spray in Juvenile Facilities*, May 2011,  
at [http://cjca.net/wp-content/uploads/2018/02/CJCA.Issue\\_.Brief\\_.OCSpray.pdf](http://cjca.net/wp-content/uploads/2018/02/CJCA.Issue_.Brief_.OCSpray.pdf).

1 Hum. Rts. & Int’l Network of C.L. Orgs., *Lethal in Disguise: The Health Impacts of Crowd*  
2 *Control Weapons* 44 (2016), [https://s3.amazonaws.com/PHR\\_Reports/lethal-in-](https://s3.amazonaws.com/PHR_Reports/lethal-in-disguise.pdf)  
3 [disguise.pdf](https://s3.amazonaws.com/PHR_Reports/lethal-in-disguise.pdf). In fact, systemic reviews of medical literature further suggest that there is not  
4 a “single research study that determines the use of tear gas weapons on youth is safe or  
5 without grave risks to health and well-being.” *See supra Toxic Treatment*, n.1, at 14.  
6 Children “are uniquely susceptible to deployment of and exposure to riot-control agents  
7 such as tear gas and pepper spray,” according to Dr. Irwin Redlener, a professor of public  
8 health at Columbia University. This is because children have higher respiratory rates than  
9 adults, and so as a result, a child will inhale significantly more air in a given time compared  
10 to an adult—and even more so while breathing quickly and shallowly while under stress  
11 or panic. People with heart conditions or respiratory conditions such as asthma or chronic  
12 bronchitis are at heightened risk for respiratory arrest from exposure to OC spray. Rapid  
13 inflammation of the respiratory tract and trachea can make breathing difficult, even if a  
14 child does not have a preexisting condition such as asthma. People with mental illness who  
15 take psychotropic medications likewise are at increased risk of serious harm or death from  
16 exposure to OC spray. Chemical agents cause severe gastrointestinal side effects if ingested  
17 or swallowed. Other than the respiratory and internal damage from these chemicals, the  
18 direct effects of exposure in children include severe irritation and pain in the eyes, nasal  
19 passages, and burning of the skin.<sup>35</sup>

### 20 3. Inadequate Educational Services for Incarcerated Youth

21 Incarcerated youth commonly have long histories of academic difficulties and  
22 failure. There is overwhelming evidence that incarcerated youth perform below their peers  
23 in the community in the areas of reading, writing, and mathematics. Incarcerated youth  
24 have an average fourth-grade reading level and more than one-third are functionally  
25 illiterate. Moreover, according to the U.S. Department of Education, youth with disabilities  
26

27 <sup>35</sup> Irwin Redlener, “Tear Gas Should Never Be Used on Children. Period.”  
28 WASH. POST, (Nov. 28, 2018), at [https://www.washingtonpost.com/pb/opinions/tear-gas-should-never-be-used-on-children-period/2018/11/28/91c1ca78-f32c-11e8-9240-e8028a62c722\\_story.html](https://www.washingtonpost.com/pb/opinions/tear-gas-should-never-be-used-on-children-period/2018/11/28/91c1ca78-f32c-11e8-9240-e8028a62c722_story.html).

1 make up anywhere from 30 to 85 percent of the juvenile correctional population. See U.S.  
2 Dept. of Educ., Off. of Special Educ. and Rehab. Servs., *Supporting Youth with Disabilities*  
3 *in Juvenile Corrections*, at [https://sites.ed.gov/osers/2017/05/supporting-youth-with-](https://sites.ed.gov/osers/2017/05/supporting-youth-with-disabilities-in-juvenile-corrections/)  
4 [disabilities-in-juvenile-corrections/](https://sites.ed.gov/osers/2017/05/supporting-youth-with-disabilities-in-juvenile-corrections/). Other studies put the population of incarcerated youth  
5 with learning disabilities at 30 to 50 percent. Nat'l Council on Disability, *Addressing the*  
6 *Needs of Youth with Disabilities in the Juvenile Justice System: The Current Status of*  
7 *Evidence-Based Research*, Report to the U.S. President at 56-57 (May 3, 2003). Another  
8 study suggests that approximately 90 percent of incarcerated youth meet the diagnostic  
9 criteria for one or more behavioral disorders. Katherine A. Larson & K. David Turner, *Best*  
10 *Practices for Serving Court Involved Youth with Learning, Attention, and Behavioral*  
11 *Disabilities*, Nat'l Center of Educ., Disability, and Juv. Just. (2001), available at  
12 <http://www.edjj.org/Publications/ES3-10-25-99.pdf>.

13 Los Padrinos' failure to provide timely and comprehensive educational services  
14 disproportionately affects children with learning disabilities and behavioral disorders, thus  
15 exacerbating the youth's failure to attain basic educational literacy or benchmarks.

16 **B. The Conditions of Incarceration of Children in Los Padrinos Have a**  
17 **Racially Discriminatory Impact Upon Youth of Color.**

18 The racial disparities of youth incarcerated in the Los Padrinos facility are shocking.  
19 In February 2024, with a total facility population of 278 young people, there were 161  
20 Latino youth, 103 Black youth, 10 white youth, and 4 "other."<sup>36</sup> In other words, **96 percent**  
21 **of all children at Los Padrinos were youth of color.**<sup>37</sup> In the broader system of all LA  
22 County locked juvenile facilities, including the camps, Black and Latino youth account for  
23 an equally alarming 94 percent of the detained population. *Id.* at 4-5. These extreme racial  
24 disparities are consistent year after year. In the words of the Probation Commission report

25 <sup>36</sup> See Cnty. of L.A. Probation Department, *Los Padrinos Juv. Hall Ethnicity and Case*  
26 *Status Population Statistics*, Feb. 28, 2024, at  
<https://file.lacounty.gov/SDSInter/bos/supdocs/POC24-0032.pdf>.

27 <sup>37</sup> While Black children accounted for 37 percent of the youth at Los Padrinos,  
28 Black youth only comprise seven percent (7%) of the County's youth population. L.A.  
Cnty. Prob. Oversight Commission, *A Demographic Snapshot of the Youth Detained in*  
*LA County Juvenile Hall*, at 5 (Mar. 12, 2024), at  
<https://file.lacounty.gov/SDSInter/bos/supdocs/POC24-0033.pdf>.

1 prepared for the Board of Supervisors,

2 South Los Angeles, Southeast Los Angeles County and the Antelope Valley are  
3 the top 3 communities in the County where pre-adjudicated detained youth lived  
4 prior to incarceration. These communities have significant concentrations of Black  
5 and Latino residents, median incomes that fall well below the average income for  
6 L.A. County and higher than average unemployment rates. They are economically  
7 disinvested communities that lack resources and face significant hurdles to  
8 achieving economic mobility.

9 *Id.* at 3. More than 92 percent of incarcerated girls at Los Padrinos are Black or Latina; 71  
10 percent of the girls at Los Padrinos on that day were Black. *Id.* at 6.

11 Unfortunately, this racially disparate rate of incarceration echoes a broader racist  
12 trope of the “super-predator” myth that seized the country in the mid-1990s, and while  
13 debunked, continues to this day. Campaign for the Fair Sentencing of Youth, *The Origins*  
14 *of the Superpredator – The Child Study Movement to Today* at 2, at [https://cfsy.org/wp-](https://cfsy.org/wp-content/uploads/Superpredator-Origins-CFSY.pdf)  
15 [content/uploads/Superpredator-Origins-CFSY.pdf](https://cfsy.org/wp-content/uploads/Superpredator-Origins-CFSY.pdf). This racist trope can be seen in much  
16 of the so-called “public safety” rhetoric used by Probation and other County officials to  
17 justify the incarceration of children in an uninhabitable facility.

18 This discredited theory not only shifted the legal landscape, but also “amplified the  
19 American public’s predisposition to associate adolescents of color, and in particular young  
20 black males, with violence and moral depravity.”<sup>38</sup> While the myth dissipated, its impact  
21 persists today. Studies show that implicit biases against Black children remain widely held.  
22 Research shows that people are likely to perceive Black boys, in particular, as older, less  
23 innocent, and more culpable than their white counterparts.<sup>39</sup> These biases contribute to a  
24 false idea that youth of color, particularly Black youth, are incapable of reform and  
25 therefore should not be given the rehabilitative opportunities offered by the juvenile court.  
26 Exposing Black and Latino children to the harshest treatment in a facility that fails to meet  
27 constitutional standards reinforces disparities rather than providing the rehabilitative

28 <sup>38</sup> Perry L. Moriearty & William Carson, *Cognitive Warfare and Young Black Males in America*, 15 J. GENDER RACE & JUST. 281, 283 (2012), at [https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1388&context=faculty\\_articles](https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1388&context=faculty_articles).

<sup>39</sup> See Phillip Atiba Goff *et al.*, *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY & SOC. PSYCH. 526, 540 (2014).

1 treatment to which all youth are entitled.<sup>40</sup>

2 **III. PROBATION HAS FAILED REPEATEDLY TO CORRECT AND**  
3 **ADDRESS THE ILLEGAL AND UNCONSTITUTIONAL CONDITIONS**  
4 **AT LOS PADRINOS AND ITS CLOSURE IS WARRANTED**

5 For decades, so-called youth justice reform in Los Angeles has been deprioritized  
6 and delayed, while elected officials engage in performative gestures that they promise will  
7 “reimagine youth justice.” It is undisputed— and the County has repeatedly conceded—  
8 that the Probation Department has been plagued with abuse and dysfunction for decades.  
9 *See* L.A. Bd. of Sups., “*Youth Justice Reimagined: A New Model for Youth Justice in Los*  
10 *Angeles County*, Nov. 24, 2020 (reviewing long history of USDOJ investigations).<sup>41</sup> In  
11 August 2019, the Board of Supervisors publicly acknowledged Probation’s history of  
12 reform failures and unanimously passed a motion to establish the Youth Justice Work  
13 Group (YJWG), imploring the YJWG to design a youth justice system rooted in healing  
14 and well-being, youth development, and racial equity. *See* L.A. Cnty. Youth Justice Work  
15 Group, *L.A. Cnty.: Youth Justice Reimagined* (October 2020) at 24.<sup>42</sup> The following year,  
16 the YJWG – comprising a diverse group of experts and stakeholders, including impacted  
17 youth and other community members, court representatives, law enforcement, public  
18 defenders, prosecutors, and government officials<sup>43</sup> — presented a comprehensive proposal  
19 for “a restorative, health-focused, care-first youth justice system that would be  
20 ‘meaningfully different in operations and outcomes from the current system.’” *Id.* at 11.

21 The Board unanimously approved the plan. Taylor Walker, *System-Impacted Youth*  
22 *Leaders Push for LA County to Fund “Youth Justice Reimagined,”* Witness LA, May 8,  
23 2021 available at <https://witnessla.com/system-impacted-youth-leaders-push-for-la->

24 <sup>40</sup> In California, Black youth are nearly 8 times more likely to be held in placement  
25 as white youth, and Latine youth are twice as likely to be held in placement as white youth.  
26 *See* Joshua Rovner, The Sent’g Project, *Black Disparities in Youth Incarceration* (2023),  
<https://www.sentencingproject.org/fact-sheet/black-disparities-in-youth-incarceration/>;  
Joshua Rovner, The Sent’g Project, *Latinx Disparities in Youth Incarceration* (2023),  
<https://www.sentencingproject.org/fact-sheet/latinx-disparities-in-youth-incarceration/>.

27 <sup>41</sup> *See* <https://file.lacounty.gov/SDSInter/bos/supdocs/150833.pdf>.

28 <sup>42</sup> Available at <https://dyd.lacounty.gov/wp-content/uploads/2023/04/Youth-Justice-Reimagined-Report-2020-1.pdf>.

<sup>43</sup> ACLU SoCal is a named member of the workgroup.

1 [county-to-fund-youth-justice-reimagined/](#). In November 2020, the Board passed a motion  
2 to adopt the recommendations, create a new Department of Youth Development (“DYD”),  
3 and set a goal to transition control of the youth justice system from Probation to DYD in  
4 five years.

5 Four years later, the County has made no appreciable progress toward fulfilling the  
6 promises of *Youth Justice Reimagined*. Probation is still legally mandated to oversee the  
7 custody and supervision of youth in the juvenile legal system until the County pursues  
8 necessary legislative reforms at the state level, and DYD has only been able to make  
9 incremental gains towards accomplishing its objectives. Dep’t of Youth Dev., *Quarterly*  
10 *Update* (June 23, 2023);<sup>44</sup> Jason Henry, *Why a ‘Reimagined’ Detention System for*  
11 *Juveniles Has Stalled in LA County*, Los Angeles Daily News, June 5, 2024, at  
12 [https://www.dailynews.com/2024/06/02/why-a-reimagined-detention-system-for-](https://www.dailynews.com/2024/06/02/why-a-reimagined-detention-system-for-juveniles-has-stalled-in-la-county/)  
13 [juveniles-has-stalled-in-la-county/](https://www.dailynews.com/2024/06/02/why-a-reimagined-detention-system-for-juveniles-has-stalled-in-la-county/). For example, DYD aims to end youth incarceration and  
14 create community-based healing centers that can serve as alternatives to detention that  
15 ultimately replace the juvenile halls and camps. To date, this plan has only advanced so far  
16 as to enable the first safe and secure healing center to launch as a pilot program to serve  
17 **six children** next year. *Id.* These plans, as well as the many other objectives outlined in  
18 *Youth Justice Reimagined*, have been inhibited by the County’s lack of investment in DYD.

19 DYD, one of the county’s smallest departments, was only allotted \$75 million in the  
20 2024-2025 County budget with 54 staff positions, while Probation received \$439 million  
21 just to run the juvenile halls. Henry, *Why a ‘Reimagined’ Detention System for Juveniles*  
22 *Has Stalled*, *supra*; L.A. Cnty. Chief Exec. Office, Dep’t Breakdown 2024-2025  
23 Recommended Budget at 47; Cnty. Of L.A., 2024-2025 Final Budget at 258.<sup>45</sup> Moreover,  
24 in the years since the County adopted *Youth Justice Reimagined*, Probation has spent only

25 \_\_\_\_\_  
26 <sup>44</sup> See <https://dyd.lacounty.gov/wp-content/uploads/2023/09/Board-Memo-YJR-Quarterly-Update-06.21.23.pdf>.

27 <sup>45</sup> See [https://file.lacounty.gov/SDSInter/lac/1159124\\_BYDEPARTMENTBREAKDOWN.pdf](https://file.lacounty.gov/SDSInter/lac/1159124_BYDEPARTMENTBREAKDOWN.pdf)  
28 and <https://ceo.lacounty.gov/wp-content/uploads/2024/12/LA-County-2024-25-Final-Budget-Book.pdf>.



1 \$9.7 million of \$88 million in grant money it received from the State to create non-carceral  
2 services, because the County has not created most of the programs the state grants were  
3 earmarked to fund, including job training, gang intervention counseling, and rehabilitative  
4 services.<sup>46</sup> Budgets are statements of values, and these figures speak volumes about the  
5 County's true level of dedication to non-carceral, community-based alternatives to the  
6 caging of children. The County currently spends roughly \$439 million per year to cage  
7 fewer than 300 children at any given time in Los Padrinos, a facility that has consistently  
8 failed to safeguard their fundamental rights and has been proven incapable of providing  
9 with them with the care, treatment, and guidance consistent with their best interests as  
10 required under state and federal law and the Constitution.

### 11 CONCLUSION

12 Under the U.S. Constitution, the failure to secure safe conditions for detained people  
13 is an impermissible punishment. *Bell*, 441 U.S. 520, 535. A jailer's conduct constitutes  
14 punishment if it is either not rationally related to a legitimate, nonpunitive government  
15 purpose or is excessive in relation to that purpose. *Id.* at 561; *Kingsley*, 576 U.S. at 398;  
16 *Demery v. Arpaio*, 378 F.3d 1020, 1030–33 (9th Cir. 2004).

17 Probation has no legitimate, nonpunitive purpose to keep Brandon and other youth  
18 incarcerated at Los Padrinos in the unconstitutional conditions described by the BSCC and  
19 by others. Probation's continued use of Los Padrinos in defiance of the State's order to  
20 cease using it is the opposite of any course of conduct that would achieve any rehabilitative  
21 ends for the children incarcerated within it. The County's choice to flout the lawful order  
22 from the BSCC to stop incarcerating children at Los Padrinos also is not rationally related  
23 to any goals of health, safety, or cost efficiency. Because the ongoing incarceration of  
24 children in Los Padrinos places this population — many of whom have documented  
25 disabilities and who are overwhelmingly Black and Latino — at substantial risk of serious

26  
27 <sup>46</sup> Rebecca Ellis, *L.A. County Got \$88 Million to Rehabilitate Young People. Most*  
28 *of it Hasn't Been Spent*, L.A. Times, Aug. 21, 2024, at  
<https://www.latimes.com/california/story/2024-08-21/l-a-county-got-88-million-to-rehabilitate-young-people-most-of-it-hasnt-been-spent>.

1 harm, this Court may infer that the County’s actions are punitive and violate federal law.  
2 *Demery*, 378 F.3d at 1032.

3 Accordingly, for all of the foregoing reasons, Amici request that this Court issue the  
4 order contemplated in its December 13, 2024 OSC.

5 Respectfully submitted,

6 DATED: Dec. 19, 2024

By: /s/ Corene T. Kendrick  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2024, I transmitted the above document as follows on each of the parties:

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I declare under penalty of perjury that the above is true and correct.

DATED: Dec.19, 2024



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