

1 ROBERT BORRELLE (SBN 295640)
2 Robert.Borrelle@disabilityrightsca.org
3 LINDSAY APPELL (SBN 330296)
4 Lindsay.Appell@disabilityrightsca.org
5 DISABILITY RIGHTS CALIFORNIA
6 350 South Bixel Street, Suite 290
7 Los Angeles, CA 90017
8 Tel.: (213) 213-8000
9 Fax: (213) 213-8001

10 *Attorneys for Plaintiffs*
11 (Additional Counsel Listed on Next Page)

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 C.B., by and through his *guardians ad*
15 *litem* W.B. and B.T.,

16 Plaintiffs,

17 v.

18 MORENO VALLEY UNIFIED
19 SCHOOL DISTRICT; MARTINREX
20 KEDZIORA, in his official capacity as
21 Moreno Valley Unified School District
22 Superintendent; DARRYL SCOTT;
23 SCOTT WALKER; DEMETRIUS
24 OWENS; MANUEL ARELLANO;
25 COUNTY OF RIVERSIDE;
26 RIVERSIDE COUNTY SHERIFF'S
27 DEPARTMENT; CHAD BIANCO, in
28 his official capacity as Riverside County
Sheriff; DEPUTY SHERIFF NORMA
LOZA; and DOES 1-10.

Defendants.

Case No. 5:21-cv-00194

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE AND
DECLARATORY RELIEF**

- 1) Unreasonable Seizure and Excessive Force (42 U.S.C. § 1983)
- 2) *Monell* Claim (42 U.S.C. § 1983)
- 3) Title II of the ADA (42 U.S.C. § 12132)
- 4) Section 504 of the Rehabilitation Act (29 U.S.C. § 794)
- 5) California Gov't Code § 11135
- 6) California Civil Code § 51 *et seq.*
- 7) Art. I, § 7(a) and Art. IV, § 16(a) of the California Constitution
- 8) Intentional Infliction of Emotional Distress
- 9) False Imprisonment
- 10) Battery
- 11) Assault
- 12) Negligent Supervision

Demand for Jury Trial

LIST OF ADDITIONAL ATTORNEYS

MARONEL BARAJAS (SBN 242044)

MB@barajasriveralaw.com

ANNA RIVERA (SBN 239601)

AR@barajasriveralaw.com

BARAJAS & RIVERA, APC

1440 N. Harbor Blvd. Suite 900

Fullerton, CA 92835

Tel: (714) 443-0096

Fax: (714) 443-0096

CLAUDIA CENTER, SBN 158255

ccenter@dredf.org

MALHAR SHAH, SBN 318588

mshah@dredf.org

DISABILITY RIGHTS EDUCATION & DEFENSE FUND

3075 Adeline St #210

Berkeley, CA 94703

Tel.: (510) 644-2555

Fax: (510) 841-8645

Attorneys for Plaintiff

INTRODUCTION

1
2 1. Plaintiff C.B., a minor, by and through his *guardians ad litem* W.B.
3 and B.T. (“Plaintiff” or “C.B.”), brings this action for injunctive relief and
4 damages against the Moreno Valley Unified School District (“District” or “Moreno
5 Valley USD”), District Superintendent Martinrex Kedziora, the County of
6 Riverside (“County”), the Riverside County Sheriff’s Department (“Sheriff’s
7 Department”), Riverside County Sheriff Chad Bianco, and various individuals for
8 harms resulting from at least four violent handcuffings at his middle school
9 campuses. C.B. alleges that Defendants’ actions, inactions, policies, practices,
10 customs and procedures violated and continue to violate his rights under the U.S.
11 Constitution, the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131 *et*
12 *seq.*, Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 794 *et*
13 *seq.*, state civil rights laws, and common law torts.

14 2. C.B. further alleges that the District, Sheriff’s Department, and
15 County partner to operate a discipline system that discriminates against students
16 with disabilities and Black students, including Black disabled students. The
17 District employs its own Campus Security Officers (CSOs) and contracts with the
18 Sheriff’s Department to provide School Resource Officers (SROs) at District
19 schools. The District calls on CSOs and SROs (together, “school police officers”)
20 to respond with physical force to minor and/or disability-related behaviors that
21 could be managed by teachers or administrators with less harmful methods, such as
22 crisis intervention, de-escalation, patience, communication, and waiting.

23 3. C.B. is a Black student with disabilities residing within the boundary
24 of the District. School police officers tackled and handcuffed C.B. in response to
25 his disability-related behaviors at least four separate times over a less than four-
26 month span in 2019. At the time of the handcuffings, C.B. was between ten and
27 eleven years old, stood about four feet, eight inches, and weighed about seventy
28 pounds. In at least one incident the school police officers simultaneously shackled

1 his wrists and ankles.

2 4. School police officer body camera footage captured part of the third
3 mechanical restraint, which occurred on October 8, 2019. The officers entered
4 C.B.'s special education classroom to investigate an allegation that he threw a rock
5 the day before. C.B. sat with his head down on his desk while the school police
6 officers questioned him. Within ninety seconds of their arrival, the officers
7 physically pulled C.B. from his desk by his arms and shoulders, pushed him with
8 force to the ground, and handcuffed him. One officer pinned his knee in C.B.'s
9 back while another officer placed him in handcuffs.

10 5. As a result of Defendants' unnecessary and excessive physical and
11 mechanical restraints, C.B. has suffered and continues to suffer severe emotional
12 distress, mental anguish, pain, humiliation, and exacerbation of his disabilities. His
13 parents have secured therapy services to help him cope with the trauma caused by
14 these incidents.

15 6. On information and belief, Defendants were and are on notice that
16 interactions with school police officers trigger and exacerbate C.B.'s disabilities
17 and cause emotional distress. Nevertheless, the District continues to request and
18 direct school police officers to respond to C.B.'s minor and/or disability-related
19 behaviors, unnecessarily escalating matters. By way of example, in a meeting with
20 C.B.'s parents, Defendant District stated that it could not implement a policy at all
21 times of exhausting less intrusive methods before calling officers. Further, school
22 police officers responded and continue to respond with excessive physical force
23 during each interaction with C.B.

24 7. On information and belief, and as evidenced by the at least four
25 handcuffings of C.B., the District fails to sufficiently train its teachers,
26 administrators, and other non-school police officer staff on using alternatives to
27 law enforcement to respond to minor and/or disability-related behaviors. The
28 District's law enforcement referral data demonstrates its excessive and

1 disproportionate reliance on school police officers. The District refers students to
2 law enforcement at a significantly higher rate than comparable districts in the state.
3 Moreover, while Black students make up about 14% of total District enrollment,
4 they are nearly 30% of District referrals to law enforcement. The District's rate of
5 referring Black students to law enforcement is more than 2.5 times its rate of
6 referring non-Black students to law enforcement.

7 8. The injuries suffered by C.B. at the hands of SROs were also the
8 product of Defendant Sheriff's Department's and County's handcuffing policies
9 and practices and failures to train and supervise its staff. The pattern of unlawful or
10 excessive restraint and handcuffing in response to C.B.'s minor and/or disability-
11 related behavior constitutes deliberate indifference to his constitutional rights.

12 9. Defendants have practices, policies, and/or customs of willful failure
13 to adequately report, document, investigate, and/or respond to, complaints of
14 unnecessary mechanical and other physical restraints of students, which has caused
15 C.B. to suffer constitutional injuries as a result, and has compounded the harms
16 suffered by C.B. By way of example, Defendants have failed to provide any
17 meaningful information regarding what transpired in the four incidents, despite
18 C.B.'s parents' repeated requests. Defendants have abdicated their responsibility to
19 train, supervise, and discipline their employees by failing to adequately report,
20 document, investigate and/or respond to complaints of unlawful or excessive force.

21 10. Plaintiff seeks monetary damages and injunctive and declaratory relief
22 for ongoing violations of his rights, including an order that Defendants cease the
23 involvement of school police officers in low-level student misbehaviors and
24 instead provide C.B. and similarly situated students with reasonable modifications
25 and positive supports and services.

26 JURISDICTION AND VENUE

27 11. This Court has jurisdiction over Plaintiff's federal claims pursuant to
28 28 U.S.C. §§ 1331 and 1343. The same actions and omissions that form the basis

of Plaintiff's federal claims, form the basis of his California state law claims. Thus, this Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367. Declaratory relief is available pursuant to 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by 28 U.S.C. § 2202 and Rule 65 of the Federal Rules of Civil Procedure.

12. Venue is proper in the Central District of California, Eastern Division, because Plaintiff resides in, and Defendants operate and perform official duties in, Riverside County. A substantial part of the events, acts, and omissions giving rise to the claims also occurred in Riverside County. 28 U.S.C. § 1391(b).

PARTIES

A. Plaintiff

13. Plaintiff C.B. is a Black, twelve-year-old boy with disabilities in the seventh grade. At the time of the events described herein, C.B. was between ten and eleven years old, approximately seventy pounds, and in the sixth grade. He appears by and through his parents and *guardians ad litem* W.B. and B.T.

14. Presently, and at all times relevant to this action, C.B. was and is a qualified individual with a disability within the meaning of all applicable statutes including the Americans with Disabilities Act, Section 504, and California Government Code § 12926. C.B. has diagnoses of Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD), disabilities that make it difficult for him to regulate his emotions, maintain focus, communicate, and comply promptly with directions. C.B., at all times relevant to this action, received special education services.¹ C.B.'s parents suspect that he may have additional undiagnosed emotional and behavioral disabilities, some of which resulted from or were exacerbated by his interactions with law enforcement.

¹ Through this complaint, C.B. does not challenge the adequacy of his Individualized Education Program (IEP) or allege Defendants violated the Individuals with Disabilities Education Act (IDEA). All references to his IEP, IEP team meetings, or special education classroom herein are for background purposes, e.g., to support his status as a qualified individual with disabilities, establish Defendants' knowledge of his disabilities, and provide evidence that Defendants discriminated against him by handcuffing him for disability-related behaviors.

1 15. Presently, and at all times relevant to this action, C.B. was and is a
2 resident of Moreno Valley, Riverside County, California.

3 16. Presently, and at all times relevant to this action, C.B. was a student at
4 Landmark Middle School or Mountain View Middle School within the school
5 district boundary of Moreno Valley USD.

6 **B. Defendants**

7 *Moreno Valley USD*

8 17. Defendant Moreno Valley USD is a public school district organized
9 and existing under the laws of the State of California, with the capacity to sue and
10 be sued. The District is located in the County of Riverside. It receives federal and
11 state funding to educate students. The District has a student population of 32,299,
12 making it the twenty-fifth most populous school district in California.²

13 18. The District is a public entity for purposes of Title II of the ADA and
14 receives both state and federal assistance such that it is subject to Section 504 and
15 California Government Code § 11135. The District is a business establishment for
16 purposes of the Unruh Civil Rights Act, California Civil Code § 51 *et seq.*

17 19. The District is the owner, operator, or lessor/lessee of Landmark and
18 Mountain View Middle Schools. It is responsible for promulgating policies and
19 procedures at those schools. The District is sued in its own right and on the basis of
20 the acts and/or omissions of its officials, agents and employees, including those
21 associated with its CSO Program. Under law, including California Government
22 Code § 815(a), the District is liable for the unlawful tortious acts hereinafter
23 complained of, including those violating state law and committed by any District
24 entity or employee acting within the course and scope of their employment.

25 20. The District created and operates its CSO Program. The District
26 contracts with the County of Riverside and/or its Sheriff's Department to provide
27

28

² California Department of Education, *Largest & Smallest Public School Districts* – CalEdFacts (Jul. 9, 2020),
<https://www.cde.ca.gov/ds/sd/cb/ceflargesmallldist.asp>.

1 SROs on its middle school and high school campuses.

2 ***Superintendent Martinrex Kedziora***

3 21. Defendant Martinrex Kedziora is the Superintendent of the Moreno
4 Valley USD. As Superintendent, Defendant Kedziora has authority, oversight, and
5 control of the District's schools and facilities, including the policies, practices,
6 procedures, programs, trainings, activities, services and employees of said schools.
7 Defendant Kedziora is responsible for the daily operations of the District,
8 including operation of the CSO program, and he is responsible for ensuring that
9 District schools and employees/staff comply with anti-discrimination laws, as well
10 as for ensuring compliance with state and federal laws.

11 22. Defendant Martinrex Kedziora is sued in his official capacity for
12 prospective relief.

13 ***Darryl Scott***

14 23. Defendant Darryl Scott is the District's Director of Safety and
15 Security. Defendant Scott was or is employed by the District. As the District's
16 Director of Safety and Security, Defendant Scott is responsible for the supervision
17 of the CSO Program under the direction of Superintendent Kedziora.

18 24. Defendant Scott directed and/or participated substantially in the
19 events described herein against C.B., and/or knew of the acts of his subordinates
20 and failed to act to prevent them as required by law. Defendant Scott is sued in his
21 individual capacity for damages.

22 ***Scott Walker***

23 25. Defendant Scott Walker is the former principal of Landmark Middle
24 School. As principal, Defendant Walker had authority and control over Landmark
25 Middle School's programs and facilities, including policies, practices, procedures,
26 programs, activities, services, training, and employees of Landmark Middle
27 School. As principal, he was responsible for ensuring that Landmark Middle
28 School complies with state and federal law.

26. Defendant Walker directed and/or participated substantially in the events described herein against C.B., and/or knew of the acts of his subordinates and failed to act to prevent them as required by law. He is sued in his individual capacity for damages.

Manuel Arellano

27. Defendant Manuel Arellano is or was a CSO employed by Moreno Valley USD and assigned to its schools. Defendant Arellano was responsible for and/or participated substantially in the events described herein against C.B. Defendant Arellano is sued in his individual capacity for damages.

Demetrius Owens

28. Defendant Demetrius Owens is or was a CSO employed by Moreno Valley USD and assigned to its schools. Defendant Owens was responsible for and/or participated substantially in the events described herein against C.B. Defendant Owens is sued in his individual capacity for damages.

County of Riverside

29. Defendant County is an incorporated municipality organized and existing under the laws of the State of California and wholly located within the State of California. The District contracts with the County and/or its Sheriff's Department to operate an SRO program on its campuses.

30. At all relevant times, Defendant County had the power and authority to adopt policies and prescribe rules, regulations, and practices affecting the operation of the Sheriff's Department, and particularly the Sheriff's Department's SRO Program operating on the campuses of the Moreno Valley USD, and its tactics, methods, practices, policies, training, and customs regarding the use of force, personnel supervision, and meaningful records review and maintenance.

Riverside County Sheriff's Department

31. Defendant Sheriff's Department is an operating department of the County. The District contracts with the County and/or the Sheriff's Department to

1 operate an SRO program on its campuses.

2 32. On information and belief, SROs are employees of the Sheriff's
3 Department, unlike CSOs who are employees of the District. Under law including
4 California Government Code § 815(a), the Sheriff's Department is liable for any
5 and all unlawful tortious acts hereinafter complained of, including those in
6 violation of state law and committed by the Sheriff's Department entity and its
7 employees acting within the course and scope of their employment.

8 ***Sheriff Chad Bianco***

9 33. Defendant Sheriff Chad Bianco is and was, at all times relevant to this
10 action, the Sheriff for Riverside County. He is a policymaker for the Sheriff's
11 Department. He is sued in his official capacity.

12 ***Deputy Sheriff Norma Loza***

13 34. Defendant Norma Loza is a Riverside County Deputy Sheriff. She is
14 or was an SRO assigned to Moreno Valley USD schools. Defendant Loza was
15 responsible for and/or participated substantially in the events described herein
16 against C.B. In doing the acts alleged herein, she acted within the scope of her
17 employment and under the color of state law. Defendant Loza is sued in her
18 individual capacity for damages.

19 ***DOES 1-10***

20 35. Plaintiff is ignorant of the true names or capacities of those defendants
21 named DOES 1 through 10. He therefore sues said defendants by fictitious names.

22 36. Plaintiff is informed and believes that these Defendants may also be
23 responsible for the acts and omissions claimed herein. For example, on information
24 and belief, an SRO with the last name Toscano and a CSO with the last name King
25 participated substantially in the events described herein against C.B.

26 37. Plaintiff is informed and believes that each of the Defendants is the
27 agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer,
28 employee, representative, franchiser, franchisee, lessor, lessee, joint venture,

parent, subsidiary, affiliate, related entity, partner and/or associate, or such similar capacity of each of the other Defendants, and was at all times, acting and performing, or failing to act or perform, within the course and scope of such similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some matter for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated, directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described. Plaintiff will seek leave to amend when the true names, capacities, connections, and responsibilities of Defendants DOES 1 through 10, inclusive are ascertained.

38. Hereinafter, references to “Defendants” shall include Paragraphs 17-38, inclusive, above.

PLAINTIFF COMPLIED WITH GOVERNMENT CLAIM REQUIREMENT
(with respect to damages under California State law)

39. Plaintiff complied with the California Government Claims Act (also known as the Tort Claims Act), California Government Code § 900 *et seq.* On July 15, 2020, Plaintiff filed an administrative tort claim pursuant to California Government Code § 910 *et seq.* with Defendants Moreno Valley USD, County, Sheriff’s Department, Sheriff Chad Bianco, Superintendent Kedziora, Director Scott, Principal Walker, CSO Arellano, CSO Owens, and Deputy Loza, notifying Defendants of claims that are now set forth herein.³ Plaintiff’s claim stated that the claim was timely as to all events, but also included an application for leave to file a late claim, to the extent any such claims were required.

40. On August 10, 2020, Defendant Moreno Valley USD rejected Plaintiff’s claim by way of letter. Similarly, on August 6, 2020, Defendant County

³ A true and correct copy of Plaintiff’s tort claim is incorporated by reference as Plaintiff’s Exhibit 1, and will be filed separately under seal with this Court.

1 rejected Plaintiff's claim by way of letter. On November 13, 2020, Plaintiff sought
 2 clarification of these Defendants' purported rejection of Plaintiff's application to
 3 present a late claim. Defendant Moreno Valley USD did not respond to Plaintiff's
 4 request for clarification.

5 41. On November 25, 2020, the County provided written letter directing
 6 Plaintiff to file a late claim petition pursuant to California Government Code §
 7 946.6. Petitioner filed that petition in Riverside County Superior Court on
 8 February 2, 2021, naming the District, County, and Sheriff's Department.

9 42. Defendant Sheriff's Department failed to reply to Plaintiff's claim
 10 and, by operation of law, Plaintiff's claim was rejected on August 29, 2020. On
 11 November 13, 2020, Plaintiff sought clarification of Defendant Sheriff's
 12 Department's purported rejection of Plaintiff's application to present a late claim.
 13 Defendant Sheriff's Department did not respond to Plaintiff's request for
 14 clarification.

15 43. Plaintiff has thus complied with the requirements of Government
 16 Code Section 910, *et seq.*

17 **STATEMENT OF FACTS**

18 **A. Racial and Disability Disparities in School Policing and Restraint**

19 ***Increased Police Presence in America's Schools***

20 44. In recent decades, school districts have drastically expanded school
 21 police programs.⁴ Instead of addressing student behaviors by providing positive
 22 supports or through administrative discipline, school administrators now call the
 23 police.⁵ The addition of police officers in schools has not made schools safer and
 24 instead has increased the criminalization of minor and/or disability-related

25
 26
 27 ⁴ In 1975, just 1% of schools placed police officers on campus, as compared to nearly half of schools today. This
 28 expansion was primarily driven by readily available federal funding for SRO programs, rather than an actual
 need for increased police presence. *See, e.g.,* Amir Whitaker, et al., AMERICAN CIVIL LIBERTIES UNION, COPS
 AND NO COUNSELORS: HOW THE LACK OF MENTAL HEALTH STAFF IS HARMING STUDENTS (2019),
https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf.

⁵ *Id.*

behaviors.⁶

45. As school districts have expanded school police programs, they have failed to fund behavioral and mental health supports. For instance, around fourteen million students in the United States attend schools patrolled by police but entirely lacking in counselors, nurses, psychologists, or social workers.⁷

46. Increased police presence in schools has had a disproportionate impact on students with disabilities and Black students. According to the U.S. Department of Education's 2015-16 Civil Rights Data Collection Survey,⁸ students with disabilities represent just 12% of the student population nationally but 28% of all students referred to law enforcement⁹ or arrested at school. Black students make up 15% of student enrollment nationally but 31% of students referred to law enforcement or arrested at school.

47. These disparities are also present in the national data on mechanical restraints,¹⁰ the category capturing handcuffings. According to the 2017-18 Civil Rights Data Collection survey,¹¹ students with disabilities again make up about 12% of the student population nationally but 41% of all students subjected to mechanical restraints. Black students represent 18% of all students with disabilities nationally, but 34% of those put in mechanical restraints.

48. Police presence and contact have grave, lifelong consequences for students. Multiple studies demonstrate that police contact causes and exacerbates

⁶ *Id.*; see also Emily K. Weisburst, *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-Term Education Outcomes*, 38 J. OF POLICY ANALYSIS & MANAGEMENT 338 (2019) (finding that federal grants placing police on school campuses increased sanctions for low-level offenses, particularly for Black students, and decreased high school graduation rates).

⁷ Whitaker, *supra* note 4.

⁸ U.S. Dept. of Educ., *2015-16 Civil Rights Data Collection: School Climate and Safety* (May 2019), <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.

⁹ The Civil Rights Data Collection defines law enforcement referral as “[A]ction[s] by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken.” See *id.* at p. 3.

¹⁰ The Civil Rights Data Collection uses the same definition of “mechanical restraint” as California state law: “The use of a device or equipment to restrict a pupil’s freedom of movement.” Cal. Educ. Code § 49005.1(d)(1).

¹¹ U.S. Dept. of Educ., *2017-18 Civil Rights Data Collection: The Use of Restraint and Seclusion on Children with Disabilities in K-12 Schools* (Oct. 2020), <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>.

1 mental health disabilities, especially trauma and anxiety.¹² Youth are particularly
 2 vulnerable to heightened emotional distress when they experience intrusive police
 3 stops.¹³ Districts that are overpoliced and under-resourced thus subject their
 4 students to traumatic police contact, while simultaneously leaving them without
 5 mental health resources to process these events.

6 49. Police contact causes even greater harm when accompanied by
 7 physical force. The U.S. Government Accountability Office (“GAO”) has
 8 explained that even if no physical injury is sustained, children who are restrained
 9 can be severely traumatized as a result.¹⁴ Students are too anxious, frightened, or
 10 angry to focus on and fully participate in classroom activities. When an individual
 11 is exposed to trauma, especially in the form of repeated traumatic stress of an
 12 extreme traumatic event, the brain becomes over-sensitized to any potential
 13 stimulus that might cue a threat. The individual thus perceives ordinary encounters
 14 as threatening ones, triggering a “fight or flight” or dissociative response.¹⁵

15 50. Dissociative responses impair a student’s attention, organization,
 16 comprehension, memory, and trust, all necessary for the acquisition of academic
 17 skills. Thus, childhood trauma is linked to poor academic outcomes, including
 18 failure to reach proficiency in core subjects and/or to graduate from high school.
 19 Exposure to trauma causes challenges with emotional self-regulation – including
 20 aggression, disproportionate reactivity, impulsivity, distractibility, or withdrawal
 21 and avoidance – that disrupt the learning environment and frequently lead to
 22

23 ¹² See, e.g., Amanda Geller *et al.*, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J.
 24 PUBLIC HEALTH 2321 (2014) (studying young men’s experiences of police encounters and finding that

25
 26 ¹³ Jackson *et al.*, *supra* note 12.

27 ¹⁴ See U.S. Gov’t Accountability Office, GAO-09-719T, Testimony before the Committee on Education and
 Labor, House of Representatives: Seclusions and Restraints, Selected Cases of Death and Abuse at Public and
 Private Schools and Treatment Centers p.1, 8 (May 19, 2009), <https://www.gao.gov/products/GAO-09-719T>.

28 ¹⁵ Perry *et al.*, *Childhood Trauma, The Neurobiology of Adaptation, and “Use-dependent” Development of the Brain: How “States” Become “Traits”* 16 INFANT MENT. HEALTH J. 271, 277-79 (1995)
http://media.wix.com/ugd/29cec4_4951bdf3fb444a62b01f2da71e4a4cae.pdf.

1 exclusionary school discipline measures or absence from school. Thus, police
 2 presence, contact, and use of force are not only traumatizing, but also counter-
 3 productive to creating a safe school environment that is conducive to learning.

4 *California's Movement Away from School Policing*

5 51. School districts and other programs for children and youth throughout
 6 California have begun to incorporate behavioral supports, trauma-informed
 7 approaches, Restorative Justice practices, access to mental health services, and
 8 other positive strategies to focus on addressing the root causes of student behaviors
 9 and minimizing involvement with the juvenile justice system.

10 52. Schools in California are reviewing and addressing racial and
 11 disability disparities in discipline to ensure students of color and students with
 12 disabilities, including disabled students of color, like C.B., are not
 13 disproportionately subject to police referrals and restraints as compared with their
 14 similarly situated peers. For these reasons, several large school districts, including
 15 Oakland Unified School District and Sacramento City Unified School District,
 16 have abolished their SRO programs completely.¹⁶

17 53. Moreno Valley USD is not one of these districts. Following the
 18 murder of George Floyd, a coalition of Riverside County community groups
 19 organized to abolish the District's SRO program. On July 23, 2020, the District's
 20 Board conducted a "Study Session" to gather community input regarding the SRO
 21 program. During this Session, the Board received almost fifty public comments,
 22 with nearly all speakers urging the Board to abolish the SRO program and reinvest
 23 its \$1.3 million-dollar budget in mental health supports, Restorative Justice,
 24 culturally relevant curricula, and other non-police programming. Many speakers
 25 specifically cited the officers' abuse of C.B. as reason to make these changes. The
 26 Board, however, did not abolish the SRO program.

27 _____
 28 ¹⁶ Nicole Karlis, *Oakland is at the Forefront of a National Movement to Abolish Police from K-12 Schools*,
 SALON (June 30, 2020, 11:52 PM), [https://www.salon.com/2020/06/30/oakland-is-at-the-forefront-of-a-national-
 movement-to-ban-police-from-k-12-schools/](https://www.salon.com/2020/06/30/oakland-is-at-the-forefront-of-a-national-movement-to-ban-police-from-k-12-schools/).

B. Moreno Valley USD's Campus Security Officer Program

54. On information and belief, the District established its CSO Program pursuant to the School Security Department provisions in California Education Code § 38000 *et seq.* Defendant Scott supervises the CSO Program as Director of Safety and Security under the direction of Defendant Kedziora. *See* Cal. Educ. Code § 38000(a).

55. On information and belief, CSOs are employees of the District.

56. According to the District's position description,¹⁷ a CSO, under the general direction of the Director of Safety and Security, "supervises, monitors, and controls" school campuses and "enforces the rules and regulations governing student behavior." Expected duties include "physically restrain[ing] persons involved in crimes, rights, or other acts of violence." The position also requires CSOs to receive ongoing trainings on the use of pepper spray and tasers, suggesting that the District considers use of force to be essential to the CSOs' role.

57. The CSOs wear police-style uniforms and are issued metal handcuffs. On information and belief, CSOs also carry pepper spray and tasers.

58. On information and belief, the District's CSO Program has no written policies and/or procedures. CSOs instead take verbal orders from Director Scott.

59. State law governs the use of restraint, including mechanical restraint, in schools. Cal. Educ. Code § 49005 *et seq.* Staff may only use restraint in an emergency and not for the purpose of coercion, discipline, convenience, or retaliation. Cal. Educ. Code § 49005.2. They may not place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back. Cal. Educ. Code § 49005.8(a)(5).

60. District policy implementing these state laws prohibits its staff, including CSOs, from using restraints that employ a device, material, or objects

¹⁷ Moreno Valley USD Human Resources Division, *Position Title: Campus Security Officer I* (Oct. 17, 2017), <https://4.files.edl.io/af25/09/04/18/173822-651104c9-971a-47b6-ba39-362fd1900e5b.pdf>.

1 that simultaneously immobilize all four extremities.¹⁸ The same District policy
 2 only allows its staff, including CSOs, to use restraint if they have received a
 3 certification in Crisis Prevention Intervention (CPI).

4 **C. The District's School Resource Officer Program**

5 ***Relationship Between the District and Sheriff's Department***

6 61. The District maintains an SRO program through a "Law Enforcement
 7 Services Agreement" with the Sheriff's Department and/or County. The agreement,
 8 effective July 1, 2018, to June 30, 2021, specifies that the Sheriff's Department
 9 will provide nine SROs to the District, three of whom serve the middle school
 10 campuses and six of whom serve the high school campuses. The total cost of the
 11 three-year contract is \$4.3 million, which includes the full cost of the SROs'
 12 salaries. On information and belief, the District funds the Agreement almost
 13 entirely through Local Control Funding Formula Supplemental and Concentration
 14 Funds.

15 62. On information and belief, the SROs are employees of the Sheriff's
 16 Department and/or County of Riverside.

17 63. According to the contract, the SROs are sworn law enforcement
 18 officers whose duties include patrolling and investigating crimes on Moreno
 19 Valley USD campuses, facilitating conversations between students and their
 20 parents, and serving as a liaison at elementary school sites.

21 ***Department Policies Governing Body Camera Footage***

22 64. Under a 2016 directive, the Sheriff's Department requires its officers
 23 to create body camera recordings of "any law enforcement action where there is
 24 reason to believe it would be appropriate and valuable to record the event." This
 25 includes citizen contacts and detentions.

26 65. If an officer fails to initiate the recording of an event when required,
 27

28 ¹⁸ Moreno Valley USD, *MVUSD SELPA Handbook* at p. 6-4 (Aug. 26, 2020),
<https://4.files.edl.io/460c/08/26/20/224843-47f1cf94-84cd-47e4-8a31-5c07ab6ef4b2.pdf>.

the officer must document the reasons for the failure in a subsequent report or memorandum. Further, officers may not terminate the body camera recording until the conclusion of the encounter, “unless tactical or practical reasons dictate otherwise.” Even then, the officer must reinitiate the recording as soon as possible and document the reasons for early termination in a report.

Sheriff’s Department Policies on Restraint and Handcuffing

66. The Sheriff’s Department Standards Manual (“Manual”) sets out the standards for when officers may handcuff youth. Policy 306.2.3 directs officers not to handcuff youth under age fourteen “unless he/she is suspected of a dangerous felony or when the deputy has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the deputy, or damage property.”

67. Policy 324.9 further specifies that officers may not handcuff status offenders or children age eleven or younger unless they are “combative or threatening.” The Policy does not guide officers as to how to decide whether a child meets the standard of being “combative or threatening.” This standard is susceptible to implicit and explicit racial biases, since officers are more likely to view ambiguous or disability-related behavior as “combative and threatening” when shown by Black students rather than white students.¹⁹

68. The Manual does not require, or even encourage, officers to use crisis communication or other non-violent alternatives to restraint, particularly for students with disabilities.

D. Facts Regarding Plaintiff C.B.

69. C.B. is a student of Defendant Moreno Valley USD and is in the seventh grade at Mountain View Middle School. C.B. has been on a remote learning model for school since on or about March 16, 2020, due to the Covid-19

¹⁹ See Kurt Hugenberg & Galen V. Bodenhausen, *Facing Prejudice: Implicit Prejudice and the Perception of Racial Threat*, 14 PSYCHOL. SCIENCE 640, 643 (Nov. 2003), <https://www.frontiersin.org/articles/10.3389/fpsyg.2017.00519/full>; Anthony Page, *Batson’s Blind-Spot: Unconscious Stereotyping and the Peremptory Challenge*, 85 B.U. L. REV. 155, 222-24 & n.337 (2005) (citing studies that show “people will assign different significance to identical actions depending on the actors’ race.”).

1 shutdown. At the time of the incidents described herein, C.B. was between ten and
2 eleven years old and enrolled in the sixth grade.

3 70. C.B. is an engaging and bright twelve-year-old boy who loves playing
4 basketball, fishing competitively and with his father, playing video games, and
5 spending time with his family. C.B. is intelligent and enjoys learning, showing
6 particular aptitude in mathematics. He and his parents hope that he will one day
7 attend college and pursue a career about which he is passionate.

8 71. C.B. has diagnoses of Attention Deficit Hyperactivity Disorder
9 (ADHD) and Oppositional Defiant Disorder (ODD), disabilities that make it
10 difficult for him to regulate his emotions, maintain focus, communicate, and
11 comply promptly with directions. C.B.'s parents suspect that he may have
12 additional undiagnosed emotional and behavioral disabilities, some of which
13 resulted from or were exacerbated by his interactions with law enforcement.

14 72. C.B. enrolled in the District in May 2019 after attending other school
15 districts in Los Angeles and Riverside Counties. Staff never handcuffed C.B. in his
16 prior school districts. Since C.B. enrolled in the District, CSOs and SROs
17 handcuffed him at least four times in less than four months, as detailed below.

18 ***Mechanical Restraint No. 1: On or about August 21, 2019, school police officers***
19 ***handcuffed C.B. for conduct resulting from his disabilities.***

20 73. C.B. had been a student at Landmark Middle School ("Landmark")
21 for less than one month, when on or about August 21, 2019, school police officers
22 handcuffed him.

23 74. That day, then-Landmark Assistant Principal Pedro Gutierrez called
24 C.B.'s mother, B.T., to tell her to pick him up from school early because he was
25 "acting up." On information and belief, C.B. was exhibiting behaviors caused by
26 his disability.

27 75. When C.B.'s mother arrived at Landmark, Mr. Gutierrez told her that
28 school police officers had handcuffed C.B. The officers had removed the handcuffs

1 before she arrived. Mr. Gutierrez told C.B.'s mother that he instructed officers to
 2 remove the handcuffs because he believed that handcuffing C.B. was "totally
 3 unacceptable," or words to that effect. Other than this statement, Mr. Gutierrez did
 4 not provide C.B.'s mother with any further information regarding the handcuffing.

5 76. Contrary to District policy, the District did not document the
 6 mechanical restraint in an Incident Report. As a result, Plaintiff cannot state the
 7 names of the school police officers who handcuffed him. He believes this
 8 information is solely in the hands of Defendants.

9 77. On information and belief, the District did not document the incident
 10 or adequately investigate, train, supervise, or discipline the staff involved.

11 ***Mechanical Restraint No. 2: On August 26, 2019, school police officers shackled***
 12 ***C.B.'s hands and ankles for conduct resulting from his disabilities.***

13 78. Five days later, on August 26, 2019, District CSOs handcuffed and
 14 leg-cuffed C.B. at Landmark.

15 79. That day, Mr. Gutierrez directed CSO Demetrius Owens to bring C.B.
 16 to the office for a meeting. CSO Owens' witness statement does not describe a
 17 reason for this meeting. According to a behavior log drafted by C.B.'s teacher, Mr.
 18 Propofsky, C.B. had disrupted class earlier in the day by cursing and ripping
 19 paper. Plaintiff suspects that the meeting with Mr. Gutierrez was related to his
 20 alleged disruptive behavior in class – which took place approximately three hours
 21 before Mr. Gutierrez summoned him to his office. Again, these behaviors were
 22 caused by his disabilities.

23 80. CSO Owens, CSO King,²⁰ and then-Landmark Assistant Principal
 24 Kamilah O'Connor found C.B. on the playground. All three directed C.B. to leave
 25 the playground and go to the office. C.B. verbally refused and started to exhibit
 26 conduct related to his disabilities, including an inability to self-regulate or express
 27 himself. He allegedly clenched his fists and began breathing heavily. CSO King
 28

²⁰ CSO King's witness statement does not include his/her/their first name.

1 and CSO Owens responded by dragging C.B. by his arms to a seclusion room.

2 81. Then-Landmark Principal Scott Walker joined CSOs Owens and King
3 in the seclusion room. Surrounded by three much larger adults in the seclusion
4 room, C.B. began experiencing and externalizing emotions of fear, anxiety, and
5 frustration. He began pulling away, pushing, and swinging with his arms in an
6 attempt to free himself from the room. C.B. was not acting out physically before
7 the CSOs physically dragged him to the seclusion room.

8 82. Principal Walker directed CSO King and CSO Owens to handcuff
9 C.B. At the time, C.B. was four feet, eight inches tall and approximately seventy
10 pounds. The CSOs placed C.B. in a physical hold, tackled him to the floor, and
11 forced him into District-issued metal cuffs. The CSOs pulled C.B. up from the
12 ground and attempted to sit him in a chair. Now handcuffed in a seclusion room
13 and surrounded by three adults, C.B. became even more upset and distressed.
14 Unable to regulate his emotions due to his disabilities, he began flailing his legs.

15 83. Principal Walker then directed CSO King and CSO Owens to place
16 separate handcuffs on C.B.'s ankles. The CSOs then immediately and
17 simultaneously shackled C.B.'s hands and ankles with metal cuffs. C.B. remained
18 shackled in this manner for an unknown period of time.

19 84. The District suspended C.B. from school that day and his aunt came
20 to pick him up. She was concerned and confused to find C.B. sitting in the fetal
21 position against the wall of the seclusion room. His aunt observed that C.B.'s arms
22 were hugging his knees and his head was down. C.B. was not wearing a shirt,
23 which had come off during the CSOs' interaction with him. A desk was blocking
24 the door to the seclusion room. C.B. and his aunt helped school staff clean up the
25 seclusion room, and then she took him home.

26 85. No District staff told C.B.'s aunt that CSOs had physically tackled
27 C.B. and then handcuffed and leg-cuffed him. District staff never told C.B.'s
28 parents of the incident either.

86. Defendants' actions, *inter alia*, violated District policies prohibiting staff from using mechanical restraints that simultaneously immobilize all four extremities.

87. The District also failed to provide an Incident Report to C.B.'s parents. In November 2019, counsel made a request to the District for a full and complete copy of C.B.'s educational records. Only after counsel received the records did C.B.'s parents learn that the CSOs shackled C.B.'s hands and ankles. The District provided C.B. with CSO King's and CSO Owens' witness statements, which were missing at least two pages. Further, the District did not provide a witness statement from Principal Walker. The District has not responded to counsel's January 2020 follow-up request for the missing pages.

88. On information and belief, the District did not document the incident or adequately investigate, train, supervise, or discipline the staff involved.

Mechanical Restraint No. 3: On October 8, 2019, school police officers tackled and handcuffed C.B. while pressing a knee into his back

89. On October 7, 2019, C.B. allegedly threw a rock in the general direction of CSO Manuel Arellano. No one from the District informed C.B.'s parents about this incident on the day that it allegedly occurred. According to a police report dated October 8, 2019, sometime after school hours on October 7, 2019, an unidentified District staff member requested that Deputy Norma Loza intervene and "investigate" the alleged rock throwing incident.²¹

90. On October 8, Deputy Loza and CSO Arellano arrived at C.B.'s special education classroom to investigate the alleged rock-throwing from the day before. At no time prior to involving the CSOs and SROs did anyone with the District attempt to arrange a meeting with C.B. with his parents present.

²¹ On information and belief, the unidentified District staff member is CSO Arellano. The police report states an individual (name redacted) contacted Deputy Loza on October 7, 2019, and alleged that C.B. threw a rock in his direction earlier that day. Separately, on October 7, 2019, CSO Arellano added a behavior log entry in C.B.'s pupil file alleging he threw the rock. No one created a log entry documenting the restraints on October 8, 2019.

91. Unlike the other incidents where school police officers handcuffed C.B., Deputy Loza's body camera partially captured the October 8, 2019, incident.²² At C.B.'s counsel's request, the Sheriff's Department produced a video that is approximately eight minutes long. On information and belief, Deputy Loza shut off her body camera before the incident concluded, violating Sheriff's Department policy and leaving the remaining hour of the incident unfiled.

92. Based on the review of the available Department footage, immediately upon entering C.B.'s classroom, Deputy Loza directed the teacher (name unknown) to remove the other students from the classroom. This left C.B. alone with Deputy Loza and CSO Arellano. C.B. sat motionless at his desk with his head down.

93. Deputy Loza stood over C.B. and said, "You're going to go to the office, no matter what. Either you go, cooperating, or I'm going to take you to the office." Neither Deputy Loza nor CSO Arellano explained why they were asking him to go to the office. C.B. kept his head down and quietly said he was not going. For thirty seconds, Deputy Loza repeated different variations of "do you understand you are going to the office?" but never explained why. C.B. remained completely still, repeating that he was not going at a barely audible volume.



Body Camera Image: C.B. sits with his head down while Deputy Loza demands he go to the office

²² A true and correct copy of the October 8, 2019, body camera footage is incorporated by reference as Plaintiff's Exhibit 2. Plaintiff will fill Exhibit 2 separately under seal with this Court.

94. After less than ninety seconds, Deputy Loza grabbed the back of C.B.'s sweatshirt and physically pulled him out of his seat. She then passed C.B. to CSO Arellano. While CSO Arellano twisted the four foot, eight inch boy's wrists behind his back to try and force handcuffs on him, Deputy Loza repeated, "You are going to the office." Again, consistent with his disabilities and behavior that they had seen him exhibit before, C.B. swore and stated that he was not going. The officers then tackled C.B., pinned him to the ground, and pressed him face down into the floor. He screamed out in pain: "Ow! My knee!" CSO Arellano then dug his own knee into C.B.'s back, and Deputy Loza placed him in handcuffs. Neither officer spoke to C.B. about his legal rights.



Body Camera Image: CSO Arellano puts his knee into C.B.'s back while Deputy Loza places C.B. in handcuffs

95. The Sheriff's Department footage also shows that while the two officers pinned C.B. on the ground, Deputy Loza threatened him by stating that if he moved then the handcuffs were "going to get tight on [him]." While C.B.'s hands are out of frame, a distinct clicking can be heard on video for about thirty seconds, as Deputy Loza presumably followed through with her threat and tightened C.B.'s handcuffs. C.B. wiggled on his stomach briefly and swore,

behavior consistent with his disabilities and of being physically and mechanically restrained and having handcuffs tightened. He then laid still on the ground, facedown and handcuffed. Deputy Loza radioed an unknown person and stated: “I have one juvenile detained. He’s being uncooperative.”

96. The Sheriff’s Department footage then shows Deputy Loza and CSO Arellano pulling C.B. to his feet and pushing him towards the classroom door, while C.B. squirmed and cried out to be let go. The officers again physically forced C.B. face down onto the floor. Another CSO then arrived (the “second CSO”).²³ The second CSO told C.B. that he should “relax.” At one point while CSO Arellano held C.B. facedown, Deputy Loza stood over him and accused him of kicking. The video does not show C.B. kicking anyone in frame.

97. The officers surrounded C.B. and held him face-down on the floor for almost two minutes. The video shows Deputy Loza, CSO Arellano, and the second



Body Camera Image: Unknown CSO twists C.B.’s leg and pushes it into the ground. CSO Arellano and Deputy Loza are to the left holding C.B. down.

²³ On information and belief, the second CSO was Demetrius Owens. CSO Arellano is heard on video using his radio to ask someone he refers to as “Owens” to come assist in the classroom. About thirty seconds later, the video shows the second CSO entering the classroom. Owens was a CSO assigned to Landmark at the time of the incident. He also handcuffed C.B. on August 26, 2019, along with CSO King.

1 CSO pull him up to a seated position on the floor. Still handcuffed, C.B. cried out
2 as CSO Arellano pressed down on his shoulders. The second CSO also held C.B.
3 down. The video shows this person twisting C.B.'s leg and using both arms and his
4 body weight to press C.B.'s calf into the ground.

5 98. C.B. was visibly in pain and cried, "Let me go! Let me go!" While
6 immobilizing C.B.'s hands, shoulders, and leg, the two male CSOs repeated: "If
7 you calm down, we calm down. You calm down, we calm down." C.B. – a child
8 with known behavioral and emotional disabilities – was unable to "calm down"
9 while handcuffed and restrained by three officers.

10 99. The Sheriff's Department footage then shows two unidentified district
11 staff arriving, but neither took any steps to intervene. One radioed for Principal
12 Walker to come to the classroom, but could not reach him. CSO Arellano directed
13 her to leave the room and find Mr. Walker. All the while, C.B. remained
14 handcuffed, immobilized on the floor. Deputy Loza stood over him, and threatened
15 to take him to the police station if he did not calm down.

16 100. After two more minutes, the video shows the second CSO releasing
17 C.B.'s leg from his hold. The three officers then pulled C.B. into a standing
18 position, and C.B. cried out in apparent pain. Deputy Loza said that a fourth
19 officer, her partner, would be arriving to help them escort C.B. off campus to an
20 awaiting police car. At that point, the body camera footage abruptly ends.

21 101. Deputy Loza and her partner, Deputy Toscano,²⁴ later placed C.B. in
22 the back of a police car. By that time, given the events that had just occurred and
23 were continuing to occur, C.B. was experiencing worsening trauma. While locked
24 in the back seat, C.B. reportedly stated: "I wish I was dead." At times the deputies
25 left C.B. alone in the locked car.

26 102. While locked and handcuffed in the police car, C.B. managed to use
27 his cell phone to call his mother. C.B.'s mother recalls that he repeatedly screamed,
28

²⁴ Deputy Loza's police report does not include Deputy Toscano's first name.

1 “Tell them to let me go!” before the phone hung up. C.B.’s mother was afraid and
2 confused; no one from the school had contacted her about these events. When
3 C.B.’s mother called her son back, Deputy Loza answered the phone. C.B.’s
4 mother told Deputy Loza that she was on her way to pick C.B. up from school.
5 Deputy Loza responded that it was too late; the ambulance was coming to pick him
6 up. However, C.B. remained in the back of the police car for nearly an hour before
7 an ambulance arrived. During this time, other students passing by saw C.B.
8 handcuffed in the back of the police car.

9 103. At approximately 12:55 pm, the ambulance took C.B. from Landmark
10 to Riverside’s Emergency Treatment Service facility for a 5585 evaluation.²⁵ At the
11 time of hospitalization, the treating psychiatrist, Dr. Alexander Tsang, and treating
12 therapist, Shirlee Lyons, noted that C.B. presented as “selectively mute.” His
13 distress began to decrease once his mother arrived, and they discharged him that
14 day at around 4:00 pm. C.B. spent over half a day handcuffed, held in a police car,
15 transported by ambulance, and psychiatrically hospitalized.

16 104. Days after this incident, Landmark staff handed B.T. a notice of
17 suspension, which mentioned the alleged rock throwing incident from October 7,
18 but not the October 8 use of physical and mechanical restraints.

19 105. C.B.’s mother asked staff to provide her with more information about
20 the school police officers restraining, handcuffing, and holding her son in a police
21 car. Staff told C.B.’s mother that they had no information about the incident. Based
22 on information and belief, the District failed to properly document and/or report
23 this incident. Contrary to its own documentation and reporting procedures, the
24 District has failed to provide C.B.’s parents with any documentation related to the
25 October 8, 2019, restraint, handcuffing, detention, or hospitalization. To date, the
26 District has failed to produce any written Incident Reports from its staff related to

27
28 ²⁵ Under California Welfare & Institutions Code Section 5585, officers may temporarily place a minor in a psychiatric facility where probable cause supports that “as a result of mental disorder” the minor is: (1) a danger to themselves or others or “gravely disabled”; and (2) “voluntary treatment is not available.”

1 this handcuffing, even after multiple requests by counsel. Plaintiff presumes based
2 on this reasonable investigation that none exist.

3 106. The Sheriff's Department similarly failed to comply with its own
4 documentation procedures. On information and belief, Deputy Loza turned off her
5 body camera before the incident ended, against Sheriff's Department policy. Also
6 against Sheriff's Department policy, Deputy Loza did not document her reasons for
7 turning off her camera in a report or memorandum. In addition, despite requests
8 from counsel, the Sheriff's Department has not produced all body camera footage
9 from Deputy Loza for this incident. Also, on information and belief, Deputy
10 Toscano did not create a police report or body camera footage for this incident
11 and/or the Sheriff's Department did not produce these records.

12 107. The SROs violated their own Policies 306.2.3 and 324.9 when they
13 handcuffed C.B., who was eleven years old at the time and not combative,
14 threatening, or suspected of committing any crimes.

15 108. Again, on information and belief, Defendants Moreno Valley USD
16 and Sheriff's Department did not document the incident or adequately investigate,
17 train, supervise, or discipline the staff involved.

18 ***Mechanical Restraint No. 4: On December 9, 2019, school police officers***
19 ***handcuffed C.B. while he was already physically restrained for exhibiting***
20 ***disability-related behaviors.***

21 109. After their son was restrained, handcuffed, locked in a police car, and
22 sent for an involuntary psychiatric hold while at Landmark, C.B. and his parents
23 were afraid for his safety and no longer wanted him to return to the same school.

24 110. After the October 8, 2019, incident, C.B.'s parents made the difficult
25 decision to keep C.B. at home rather than subject him to further discrimination,
26 harm and repeated constitutional injuries. He remained at home without any
27 schooling for approximately five weeks. Desperate for another option, C.B.'s
28 parents obtained an intra-district transfer permit so that C.B. could attend

1 Mountain View Middle School (“Mountain View”). The move forced C.B. to,
2 among other things, leave his friends and social networks behind.

3 111. On December 9, 2019, shortly after starting at Mountain View,
4 Deputy Loza again handcuffed C.B. after he had a disagreement with a classmate.
5 C.B. allegedly pulled a classmate’s chair out from under him. The classmate then
6 shoved C.B. The two children pushed each other a few times, and the teacher
7 intervened to break it up. Unable to regulate his emotions effectively, C.B. pushed
8 his teacher and began to throw classroom items.

9 112. The teacher cleared the classroom and called for CSOs and SROs to
10 respond. CSO Juan Ramirez and CSO Kristopher Woodside arrived first and,
11 almost immediately, physically restrained C.B., who was displaying disability-
12 related behaviors. CSO Woodside restrained C.B. on the ground.

13 113. Deputy Loza arrived next about fifteen minutes later. Contrary to
14 Sheriff’s Department protocols, Deputy Loza did not turn on her body camera and
15 later failed to report why she did not turn it on, despite Department procedures
16 mandating otherwise. When Deputy Loza arrived, CSOs Ramirez and Woodside
17 were still physically restraining C.B. Without attempting to deescalate the situation
18 or address C.B.’s disability-related behaviors, Deputy Loza handcuffed C.B.

19 114. After handcuffing C.B., Deputy Loza transported him to the Moreno
20 Valley Police Station. While the police held C.B. at the station, Deputy Loza
21 decided to refer C.B. to the Emergency Treatment Services Center (ETS) for a
22 5585 evaluation and requested an ambulance transport. Before the ambulance got
23 to the police station to transport C.B., his mother arrived and asked to take her son
24 home. But Deputy Loza refused. Instead, C.B.’s mother watched the officers escort
25 her son outside the back of the police station building and into the ambulance.

26 115. The ambulance transported C.B. to the ETS Center. According to the
27 official police report, an unidentified person restrained C.B. to the gurney during
28 the ride. Hours later, C.B. finally reunited with his mother and received his

1 discharge. This traumatic episode, which involved handcuffing, detention in a
 2 police station, physical restraint on an ambulance gurney, and a psychiatric
 3 hospitalization referral, lasted, in total, around three hours.

4 116. The District later initiated expulsion proceedings against C.B. based
 5 on the initial incident with his classmate at school. On December 20, 2019, the
 6 Individualized Education Program (“IEP”) team met for a Manifestation
 7 Determination Review, a procedure required under federal law before expelling a
 8 student with a disability. The IEP team determined that C.B.’s behaviors – the
 9 same behaviors he had exhibited many times before and in each of the prior
 10 handcuffing incidents – were in fact caused by his disabilities, including ADHD
 11 and ODD. The IEP team’s determination nullified the pending expulsion charges.

12 117. On information and belief, Defendants Moreno Valley USD and
 13 Sheriff’s Department did not document the incident or adequately investigate,
 14 train, supervise or discipline the staff involved.

15 **D. Facts Regarding Systemic Discrimination**

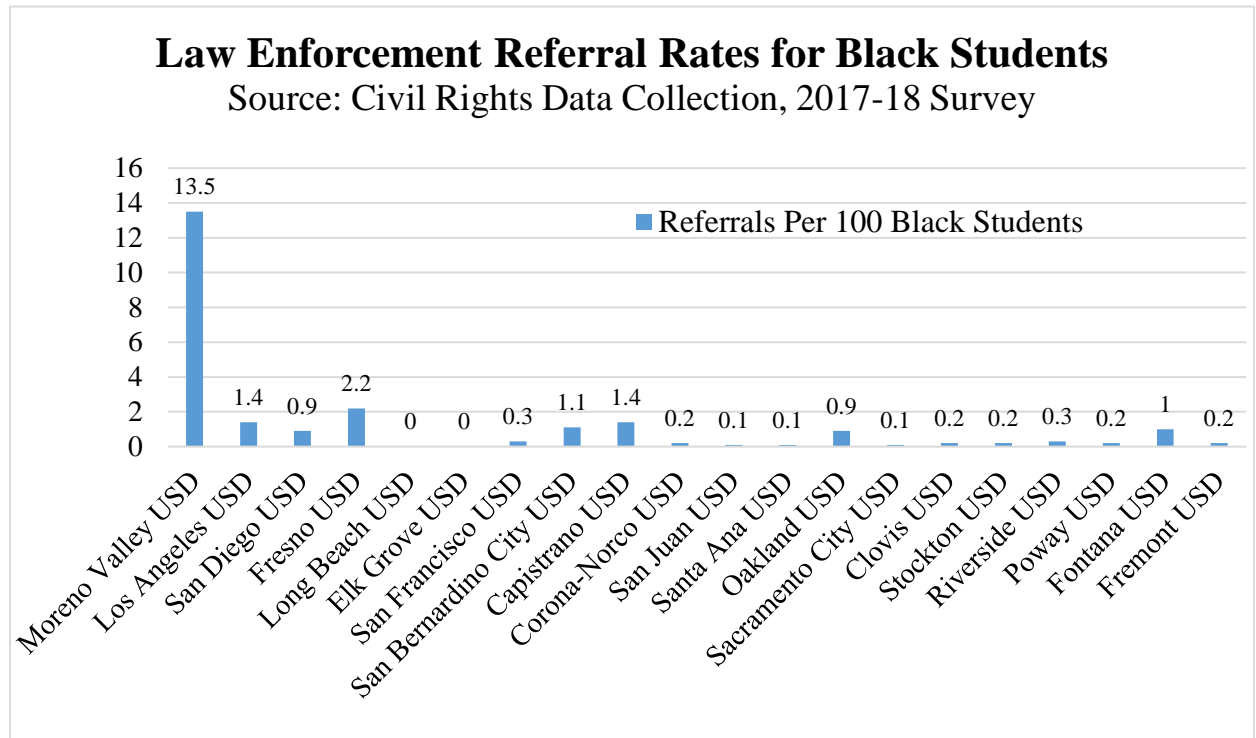
16 ***Racial and Disability Disparities in Moreno Valley USD***

17 118. C.B.’s experience highlights systemic discrimination within Moreno
 18 Valley USD. The District refers its students to law enforcement at a much higher
 19 rate than other large California school districts. In 2017-18, as reported to the Civil
 20 Rights Data Collection, the District referred 2,108 students to police or about 6.3
 21 per 100 students. By comparison, the Los Angeles Unified School District referred
 22 just 1 student per 100. Nearby Riverside Unified School District referred just 3
 23 students per 1,000.

24 119. The District refers Black students to law enforcement at dramatically
 25 higher rates than non-Black students. In 2017-18, as reported to the Civil Rights
 26 Data Collection, Black students were 13.7% of the District’s student population
 27 but 29% of referrals to law enforcement. The District’s law enforcement referral
 28 rate for Black students is 13.5 per 100 students, more than 2.5 times its referral rate

for non-Black students (5.2 per 100 students).

120. The District's referral rate of Black students to law enforcement is exponentially higher than the referral rates for Black students in similarly sized districts in the state:



121. The Sheriff's Department's school arrest data further show that Black students are more likely to be arrested and arrested for non-violent offenses than their non-Black peers. Of Black students arrested on campus, 78% were arrested for non-violent offenses, compared to 63% of non-Black students arrested on campus. Similarly, 46% of Black students arrested on campus are arrested for the most minor offense – being out of class during school hours – while only 37% of non-Black students are arrested for this offense.

122. Related to the disproportionate representation of Black students in law enforcement referrals and arrests is the fact that the District disproportionately restrains Black students. Per the Civil Rights Data Collection, Black students make up 37% of all students restrained, almost three times their representation in the District. The District also disproportionately restrains students with disabilities.

1 Students with disabilities make up 61% of all students restrained, over 3.5 times
2 their representation in the District.

3 ***Defendants’ Discriminatory Policies, Practices, and Procedures***

4 123. The high rates of law enforcement referrals result from Defendants’
5 various policies, practices and procedures that allow and even encourage school
6 police officer involvement in low-level and disability-related behaviors, even for
7 incidents that occurred on days prior – like C.B.’s act of throwing a rock. Teachers
8 or administrators could handle these incidents instead.

9 124. For example, the aforementioned “Law Enforcement Services
10 Agreement” between the District and Sheriff’s Department that establishes the
11 SRO program does not prohibit SROs from intervening in minor school discipline
12 incidents. It does not outline when SROs may use restraints or handcuffs. It does
13 not describe applicable legal protections for students with disabilities, including
14 the requirement to provide reasonable modifications in police encounters. It does
15 not provide for alternatives to physical restraint.

16 125. The Sheriff’s Department Policies grant SROs broad authority to
17 intervene in incidents involving students, even where the student has committed no
18 crime. Policy SRU-003 authorizes SROs to “counsel” students who are “about to
19 engage” in criminal misconduct. This policy further allows officers to search
20 students with only “reasonable suspicion” that the student has violated a school
21 rule, regardless of whether there is a basis for believing that the student has
22 violated a law or is carrying weapons or contraband. The policy allows SROs to
23 “stop, question, interview, and take police action without the prior authorization of
24 the principal.” Policy SRU-004 further authorizes SROs to stop, question, detain,
25 and cite students simply for being out of class during school hours.

26 126. Another example is the District’s 2019-20 Secondary Sequential
27 Discipline Standard (the “Standard”), a document that dictates the “consequences”
28 and “interventions” to violations of the student code of conduct. The Standard

1 authorizes, and at times requires, school staff to refer students to law enforcement
2 in situations where California law does not.

3 127. For instance, California Education Code § 48902 mandates school
4 staff refer students to law enforcement in only limited circumstances involving
5 major offenses (e.g., assault with a firearm). But the Standard *requires* District
6 staff to refer students to law enforcement in many additional circumstances,
7 including such minor infractions as vandalism or possession of a lighter.

8 128. The Standard also gives staff discretion to refer students to law
9 enforcement for other non-criminal, low-level offenses that can be handled through
10 the administrative discipline system or by providing supports and reasonable
11 modifications. The Standard does not guide staff as to how to exercise their
12 discretion in referring students to law enforcement, nor does it explain why staff
13 might refer some students but not others.

14 129. On information and belief, the District does not provide any training
15 to its staff on how to exercise their law enforcement referral discretion, including
16 on whether the student conduct is the result of disabilities, whether such referral
17 will exacerbate students' disabilities or contribute to racial disparities, and
18 alternatives to referrals.

19 130. On information and belief, the Sheriff's Department has failed to
20 properly train SROs on interacting with students with disabilities. On information
21 and belief, the Sheriff's Department has also failed to properly train SROs to
22 abstain from intervening in incidents involving minor and/or disability-related
23 behaviors. The SROs' treatment of C.B. shows that SROs are not appropriately
24 trained on how to interact with students with disabilities and when to refuse to
25 intervene in on-campus incidents.

26 ***Failure to Document Mechanical Restraints and Use of Force Incidents***

27 131. C.B.'s experiences also reveal Defendants' pervasive failures to
28 accurately document incidents of restraint and use of force, and to promptly notify

1 parents of such incidents. This practice of general applicability, *inter alia*,
2 discriminates against students with disabilities who may not be able to explain
3 what happened to them because of impaired communication abilities, trauma, or
4 other disability-related reasons.

5 132. The District's own restraint policies, *supra* note 18, require "all
6 personnel" who assist in a restraint to complete their own "Incident Report" and
7 submit it to District administrators for their review. But as described above, the
8 District and its staff routinely violated this policy by failing to complete an
9 Incident Report for every single one of C.B.'s handcuffings. C.B.'s parents still do
10 not know the full extent of the CSOs' use of force and any injuries C.B. sustained.
11 C.B. was, and still is, unable to fully discuss or describe these traumatic events.

12 133. Further, under District Board Policy 5145.11, administrators must
13 attempt to contact the parent before allowing law enforcement to question a
14 student. Administrators must make further attempts to contact the student's parent
15 before allowing law enforcement to remove a student from campus. If an SRO
16 arrests or removes a student from campus, both Policy SRU-003 and
17 Administrative Regulation 5145.11 require the SRO to inform the school
18 administrator and sign the "Removal of Student from Campus" form. In C.B.'s
19 case, the District administrator failed to create this form or make any attempt to
20 contact C.B.'s parents in three of the four known incidents.

21 134. On information and belief, Defendants District, Kedziora, and Scott
22 are aware that CSOs violate state law and District policies by unnecessarily
23 restraining students, including disabled students, Black students, and Black
24 disabled students, and by failing to document and report restraints and resulting
25 student injuries to parents, but take no steps to investigate or discipline the CSOs.

26 135. The Sheriff's Department and County have failed to provide all
27 documentation of the cuffings of C.B. involving SROs. Further, contrary to
28 Sheriff's Department protocols, Deputy Loza turned off her body camera early

1 during the October 8, 2019, use of force incident. She failed to turn it on at all
 2 during the cuffing on December 9, 2019, and did not submit the required report
 3 explaining why.

4 136. On information and belief, the Sheriff's Department, Sheriff Bianco,
 5 and County are aware that SROs violate internal policies by failing to properly
 6 document use of force incidents in writing or on body camera, but fail to
 7 investigate or discipline these SROs.

8 **FIRST CLAIM FOR RELIEF**

9 **Unreasonable Seizure and Excessive Force in Violation of the Fourth and** 10 **Fourteenth Amendments of the U.S. Constitution, 42 U.S.C. § 1983**

11 *(Defendants Scott, Walker, Loza, Owens, Arellano, Does 1-10)*

12 137. Plaintiff incorporates by reference the above paragraphs as though
 13 fully set forth herein.

14 138. The Fourth Amendment of the U.S. Constitution protects Plaintiff
 15 C.B. against unreasonable seizures and excessive force. The Fourteenth
 16 Amendment of the U.S. Constitution extends this protection to the states.

17 139. Whether a seizure is unreasonable and unconstitutional depends upon
 18 the totality of the circumstances.

19 140. Defendants' actions described herein constituted a seizure that was
 20 objectively unreasonable under the totality of the circumstances, in violation of the
 21 Fourth Amendment of the United States Constitution.

22 141. The seizures of Plaintiff C.B. were unreasonable in light of the totality
 23 of the circumstances, including but not limited to:

- 24 a. C.B.'s age, size, and disabilities, including his limited ability to
 25 impose physical harms on others and limited ability to form criminal
 26 intent;
- 27 b. That C.B. was exhibiting behavior typical of school-age children
 28 and/or related to his disabilities while at his middle school;

- c. That C.B. did not actively resist school officer intervention or attempt to flee;
- d. The length of the time between the alleged behaviors and the seizures (e.g., the third incident occurred more than twenty-four hours after the disciplinary incident involving C.B.);
- e. That the handcuffing incidents violated District and SRO policies and state law governing physical and mechanical restraints;
- f. The length of time of the handcuffing; and
- g. The trauma of the handcuffing and restraint techniques, including from officers simultaneously shackling C.B.'s wrists and ankles and digging a knee into his back while pinning him facedown.

142. By engaging in the acts described herein, Defendants Scott, Loza, Walker, Owens, Arellano, and Does 1-10, acting under color of state law and with deliberate indifference, violated C.B.'s rights under the U.S. Constitution to be free from unreasonable seizures and excessive force.

143. Defendants Walker and Scott are liable as supervisors because the actions described herein constituted culpable action or inaction in the training, supervision, and control of subordinates, acquiescence in the constitutional deprivation after a complaint/incidents was made/occurred, and showed a reckless or callous indifference to C.B.'s rights.

144. The right of C.B. to be free from unreasonable seizures and excessive force as described herein was clearly established in law at the time of the incidents alleged. As a proximate result of Defendants' unreasonable seizure and use of excessive force, C.B. has suffered and continues to suffer severe emotional distress, pain, humiliation and exacerbation of his disabilities. C.B. continues to experience fear, distrust, and anxiety regarding law enforcement officers.

145. C.B. is entitled to damages, injunctive and declaratory relief, and reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

SECOND CLAIM FOR RELIEF

Monell Claim, 42 U.S.C. § 1983

(Defendants County of Riverside and Riverside County Sheriff's Department)

146. Plaintiff incorporates by reference the above paragraphs as though fully set forth herein.

147. Defendants County of Riverside and Sheriff's Department maintain and implement the following unconstitutional policies, practices, and/or customs:

- a. A policy, practice, and/or custom of SRO intervention in minor misconduct typical of school-age children and/or related to their disabilities;
- b. A policy, practice, and/or custom of SRO use of excessive and unnecessary physical and mechanical restraint and other physical force on children;
- c. A policy, practice, and/or custom of repeated constitutional violations that were not properly investigated and/or documented and for which the violators were not disciplined, reprimanded, or punished, and C.B. suffered constitutional injuries as a result; and
- d. A policy, practice, and/or custom of SROs failing to use their body cameras, or using their body cameras improperly, during handcuffings and other use of force incidents at school.

148. These policies, practices, and customs were the moving forces in Defendants' unreasonable seizures and use of excessive force on C.B. described above and alleged in the First Claim for Relief. Defendants' policies, practices, and customs are frequent, consistent, and widespread, as evidenced in part by the SROs' similar use of force on C.B. at two separate District campuses.

149. Defendants exhibited deliberate indifference to the constitutional rights of C.B. in maintaining such policies, practices, and customs. Defendants' practice violates the Sheriff's Department's own policies, including Policies

1 306.2.3 and 324.9, and Policy SRU-003.

2 150. Defendants knew or should have known that maintaining such
3 policies, practices, and customs were in violation of well-established constitutional
4 rights of minors – especially those with disabilities – to be treated with special care
5 by police officers. The Defendants’ policies, practices, and customs did directly
6 result in the pattern of violations of C.B.’s constitutional rights.

7 151. Further, on information and belief, Defendants Sheriff’s Department
8 and County have failed and continue to fail to train and supervise SROs so as to
9 prevent a pattern of lawful restraints from occurring.

10 152. Defendants do not adequately train SROs on how to safely and
11 appropriately interact with students, especially students with disabilities.
12 Defendants failure to train in this area constitutes deliberate indifference in light of
13 the statistical likelihood, based on national and District-level data, that SROs will
14 disproportionately encounter students with disabilities. Defendants also do not
15 adequately train SROs on when to abstain from intervening in incidents involving
16 minor and/or disability-related behaviors.

17 153. Defendants have also failed to train and ensure compliance with state
18 laws and internal procedures pertaining to restraints, including but not limited to
19 restrictions on the physical and mechanical restraint of children with and without
20 disabilities, documentation and parent notification requirements for restraint and
21 injury, and proper body camera procedures.

22 154. Despite evidence that SROs routinely disregard state laws and internal
23 procedures, Defendants have failed to investigate, discipline, and terminate officers
24 who unlawfully restrain children and fail to document these restraints in police
25 reports and on body camera footage.

26 155. As a proximate result of Defendants’ acts and omissions, C.B. has
27 suffered and continues to suffer severe emotional distress, pain, and exacerbation
28 of his disabilities. C.B. continues to experience fear, distrust, and anxiety regarding

1 law enforcement officers.

2 156. C.B. is entitled to damages, injunctive and declaratory relief, and
3 reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

4 **THIRD CLAIM FOR RELIEF**

5 **VIOLATIONS OF TITLE II OF THE ADA, 42 U.S.C. § 12132**

6 *(Defendants Moreno Valley USD, Superintendent Kedziora, County of Riverside,*
7 *Sheriff's Department, and Sheriff Bianco)*

8 157. Plaintiff incorporates by reference the above paragraphs as though
9 fully set forth herein.

10 158. Congress enacted the ADA to "to provide a clear and comprehensive
11 national mandate for the elimination of discrimination against individuals with
12 disabilities" and "clear, strong, consistent, enforceable standards addressing
13 discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1)-(2).

14 159. Title II of the ADA provides that "no qualified individual with a
15 disability shall, by reason of such disability, be excluded from participation in or
16 be denied the benefits of the services, programs, or activities of a public entity, or
17 be subjected to discrimination by any such entity." 42 U.S.C. § 12132.

18 160. C.B. is an individual with a disability under the ADA. 42 U.S.C. §
19 12102. His disabilities substantially limit one or more major life activities,
20 including learning, concentration, thinking, and interacting with others.

21 161. As a school-age child who lives in the District, he is qualified to
22 participate in Defendants' educational programs and services. 42 U.S.C. §
23 12131(2).

24 162. Defendants Moreno Valley USD, County of Riverside, and Sheriff's
25 Department are all public entities within the meaning of the ADA. Defendants
26 Superintendent Kedziora and Sheriff Bianco are officials responsible for running
27 and/or supervising the operations of their respective public entities. 42 U.S.C. §
28 12131(1).

1 163. Defendant Moreno Valley USD is legally responsible for all
 2 violations of the ADA committed by Defendants County and/or Sheriff's
 3 Department in the course of performing security services to students within the
 4 District. *See* 28 C.F.R. § 35.130(b)(1).

5 164. Through the acts and omissions described above, Defendants are
 6 violating the ADA, 42 U.S.C. § 12132, and its implementing regulations, 28
 7 C.F.R. Pt. 35, including by:

- 8 a. Failing to make reasonable modifications to policies, practices, and
 9 procedures to avoid discrimination against C.B.;
- 10 b. Utilizing methods of administration that have the effect of defeating
 11 or substantially impairing the accomplishment of the objectives of
 12 Defendants' programs with respect to C.B., including using police to
 13 enforce school rules, rather than teachers and administrators;
- 14 c. Denying C.B. an opportunity to participate in and benefit from
 15 educational services that is equal to that afforded of other students.

16 165. In addition, through the acts and omissions described above, the
 17 District and Superintendent Kedziora in his official capacity are violating the
 18 ADA, 42 U.S.C. § 12132, and its implementing regulations, 28 C.F.R. Pt. 35, by:

- 19 a. Aiding or perpetuating discrimination by providing significant
 20 assistance to the County and/or Sheriff's Department, public entities
 21 that discriminate against C.B.; and
- 22 b. Subjecting C.B. to disability-based harassment that is so severe and
 23 pervasive that it creates a hostile learning environment.

24 166. Defendants at all times have known or should have known that C.B.
 25 was a student with disabilities and required reasonable modifications.

26 167. Defendants have demonstrated a deliberate indifference that harm to
 27 Plaintiffs' federally protected rights under the ADA was substantially likely, and
 28 failed to act upon that likelihood.

168. The acts and omissions of Defendants have caused and will continue to cause C.B. to suffer irreparable harm, and he has no adequate remedy at law.

169. Under the ADA, Plaintiffs are entitled to attorneys' fees and costs as appropriate and permitted by law, pursuant to 42 U.S.C. § 12205.

FOURTH CLAIM FOR RELIEF

VIOLATION OF SECTION 504, 29 U.S.C. § 794 *et seq.*

(Defendants Moreno Valley USD, Superintendent Kedziora, County of Riverside, Sheriff's Department, and Sheriff Bianco)

170. Plaintiff incorporates by reference the above paragraphs as though fully set forth herein.

171. Section 504 provides that "[n]o otherwise qualified individual with a disability in the United States...shall, solely by reason of [their] disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794.

172. Plaintiff C.B. is a qualified individual with a disability under Section 504.

173. Defendants are recipients of federal funds.

174. Solely by reason of his disabilities, C.B. has been excluded from participation in, denied the benefit of, and subjected to discrimination in his attempts to receive meaningful and equal access to the facilities, programs, services, and activities offered by Defendants in violation of Section 504, 29 U.S.C. § 794, *et seq.*, and its implementing regulations at 34 C.F.R. Pt. 104 (U.S. Department of Education) and 28 C.F.R. 42.501 *et seq.* (U.S. Department of Justice). The Defendants' acts and omissions violating C.B.'s rights under the ADA also violate his rights under Section 504 (*see* Third Claim for Relief, *supra*).

175. Defendants have demonstrated a deliberate indifference that harm to Plaintiffs' federally protected rights under Section 504 was substantially likely,

1 and failed to act upon that likelihood.

2 176. The acts and omissions of Defendants have caused and will continue
3 to cause C.B. to suffer irreparable harm, and he has no adequate remedy at law.

4 177. Under Section 504, Plaintiffs are entitled to attorneys' fees and costs
5 as appropriate and permitted by law, pursuant to 29 U.S.C. § 794a.

6 **FIFTH CLAIM FOR RELIEF**

7 **VIOLATION OF CALIFORNIA GOVERNMENT CODE § 11135 *et seq.***
8 ***(Defendants Moreno Valley USD, Superintendent Kedziora, County of Riverside,***
9 ***Sheriff's Department, and Sheriff Bianco)***

10 178. Plaintiff incorporates by reference the above paragraphs as though
11 fully set forth herein.

12 179. California Government Code § 11135 prohibits discrimination under,
13 and the denial of full and equal access to the benefits of, state-funded programs
14 and activities on the basis of race, ethnicity, and disability.

15 180. Violations of the ADA constitute violations of Government Code §
16 11135(b).

17 181. At all times relevant to this action, Plaintiff C.B. has been and is a
18 qualified individual with a disability within the meaning of California law. Cal.
19 Gov't Code § 12926. As a Black student, C.B. is entitled to California law
20 protections against discrimination on the basis of race and ethnicity. *Id.*

21 182. Defendants Moreno Valley USD, County of Riverside, and Sheriff's
22 Department are public agencies that receive financial assistance from the State of
23 California. Defendants Kedziora and Sheriff Bianco are officials responsible for
24 running and/or supervising the operations of their respective public entities.

25 183. Through the acts and omissions described above, Defendants are
26 violating Government Code § 11135, and its implementing regulations, Cal. Code
27 Regs. tit. 2, § 11154. Defendants discriminate against C.B. and other similarly
28 situated Black students with respect to law enforcement referrals that result in an

1 adverse disparate impact. Defendants selectively enforce facially neutral policies
2 by referring Black students to police for less severe behaviors than their non-Black
3 peers, denying Black students full and equal access to the benefits of their
4 education without nondiscriminatory justification. Defendants disproportionately
5 arrest Black students for minor and/or disability-related behaviors.

6 184. Defendants also discriminate against C.B. and other similarly situated
7 Black students with respect to school police restraints that result in an adverse
8 disparate impact on Black students. These disparities result in part from
9 Defendants' implicit and unconscious biases and stereotypes against Black
10 students, which are incorporated into the Sheriff's Department policy allowing
11 SROs to handcuff children who officers perceive as "combative or threatening."

12 185. Defendant Moreno Valley USD has also aided or perpetuated
13 discrimination by transferring state support to the County and/or Sheriff's
14 Department, other recipients of state support that discriminate against C.B. and
15 other similarly situated Black students, as described *supra*.

16 186. Defendant Moreno Valley USD utilizes methods of administration
17 that have the effect of defeating or substantially impairing the accomplishment of
18 the objectives of Defendants' programs with respect to C.B. and other similarly
19 situated Black students, including using police to enforce school rules, rather than
20 teachers and administrators.

21 187. Defendant Moreno Valley USD subjects C.B. and other similarly
22 situated Black students to racial harassment that is so severe and pervasive that it
23 creates a hostile learning environment.

24 188. Defendants have also violated Government Code § 11135 by
25 discriminating against C.B. and other similarly situated students with disabilities in
26 violation of the ADA (*see* Third Claim for Relief, *supra*).

27 189. Defendant's actions have caused and will continue to cause C.B. to
28 suffer irreparable harm, and he has no adequate remedy at law. Because

1 Defendant's discriminatory conduct is ongoing, declaratory and injunctive relief
2 are appropriate remedies.

3 190. C.B. is also entitled to reasonable attorneys' fees and costs.

4 **SIXTH CLAIM FOR RELIEF**

5 **VIOLATION OF CALIFORNIA CIVIL CODE § 51 *et seq.***

6 ***(Defendants Moreno Valley USD and Superintendent Kedziora)***

7 191. Plaintiff incorporates by reference the above paragraphs as though
8 fully set forth herein.

9 192. California's Unruh Civil Rights Act prohibits business establishments
10 from discriminating against individuals with disabilities and also prohibits
11 discrimination based on a person's disability or perceived disability. Cal. Civ.
12 Code § 51 *et seq.*

13 193. Any violation of the Americans with Disabilities Act is also a
14 violation of the Unruh Act. Cal. Civ. Code § 51(f).

15 194. The Unruh Act further makes any entity that "denies, aids or incites a
16 denial, or makes any discrimination or distinction" prohibited by the Act liable for
17 damages for "each and every offense." Cal. Civ. Code § 52.

18 195. Defendants are a public entity under Title II of the ADA and a
19 business establishment under the Unruh Civil Rights Act.

20 196. C.B. is an individual with a disability under the ADA. 42 U.S.C. §
21 12102. His disabilities substantially limit one or more major life activities,
22 including learning, concentration, thinking, and interacting with others.

23 197. Defendants have violated Title II of the ADA as described in the
24 Third Claim for Relief, *supra*.

25 198. As a result of Defendants' acts and omissions, C.B. has suffered
26 injuries including, but not limited to, denial of meaningful access to the benefits of
27 a public education, humiliation, hardship, pain and suffering, and anxiety. Plaintiff
28 seeks injunctive and declaratory relief, as well as statutory damages of at least

1 \$4,000 under California Civil Code § 52(f) for “each and every offense”
 2 Defendants have committed against him or three times his actual damages and
 3 attorneys’ fees and costs.

4 **SEVENTH CLAIM FOR RELIEF**

5 **VIOLATION OF ARTICLE I, § 7(A) AND ARTICLE IV, § 16(A) OF THE**
 6 **CALIFORNIA CONSTITUTION**

7 *(Defendants Moreno Valley USD and Superintendent Kedziora)*

8 199. Plaintiffs incorporate by reference the preceding paragraphs of this
 9 Complaint as though fully set forth herein.

10 200. Moreno Valley USD and Superintendent Kedziora have violated the
 11 rights of C.B. and other Black students and students with disabilities in the District
 12 to receive equal protection of the laws, as guaranteed by Article I, § 7(a) and
 13 Article IV, § 16(a) of the California Constitution, by failing to provide them with
 14 equal educational opportunities that meet the statewide standard.

15 201. These constitutional provisions impose on Defendants the duty to
 16 provide Black students and students with disabilities an equal opportunity to
 17 educational services adequate to teach them the skills they need to succeed as
 18 productive members of society and to meet the statewide education standard – a
 19 safe learning environment free from unnecessary and abusive punishments,
 20 including police stops, restraints, and arrests. *See Butt v. State of California*, 4 Cal.
 21 4th 668, 687 & n.14, 16 (Cal. 1992).

22 202. Yet Defendants subject Black students, including Black students with
 23 disabilities, to a school program that disproportionately refers them to law
 24 enforcement and thereby imposes unnecessary and harmful restraints and arrests
 25 that create and exacerbate emotional and psychological trauma and interfere with
 26 their fundamental right to a basic education.

27 203. Defendants fall below statewide standards by referring students, and
 28 Black students in particular, to law enforcement at a much higher rate than

1 comparably sized school districts. The Defendants have failed to meet their
 2 constitutional duty to prevent these practices and thereby fully deprive Black
 3 students and students with disabilities of access to the classroom, learning, and
 4 their education rights.

5 204. As a proximate cause of the actions of Defendants herein, Plaintiff is
 6 entitled to an order and judgment enjoining Defendants from violating his rights
 7 and the rights of similarly situated Black and disabled students to equal protection
 8 under the California Constitution.

9 205. As a proximate cause of the actions of Defendants herein, Plaintiff is
 10 also entitled to a Declaration that Defendants' actions or omissions violated his
 11 rights and the rights of similarly situated Black and disabled students to equal
 12 protection under the California Constitution.

13 206. C.B. is also entitled to reasonable attorneys' fees and costs.

14 **EIGHTH CLAIM FOR RELIEF**

15 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

16 *(All Defendants)*

17 207. Plaintiff incorporates by reference the above paragraphs as though
 18 fully set forth herein.

19 208. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10
 20 engaged in extreme and outrageous conduct when they intentionally committed the
 21 acts described herein.

22 209. As a proximate result of Defendants Scott, Walker, Owens, Loza,
 23 Arellano, and Does 1-10's extreme and outrageous conduct, Plaintiff C.B. has
 24 suffered severe emotional distress.

25 210. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10
 26 were adults in a position of power over Plaintiff C.B. and aware of his
 27 susceptibility to injuries through emotional distress as a minor student with
 28 disabilities.

1 211. California Government Code § 815.2 provides that a public entity is
2 liable for injury proximately caused by an act or omission of an employee of the
3 public entity within the scope of their employment.

4 212. The District and Superintendent Kedziora in his official capacity were
5 at all relevant times the employers of Defendants Scott, Walker, Owens, Arellano,
6 and some or all of Does 1-10.

7 213. Defendants Scott, Walker, Owens, Arellano, and some or all of Does
8 1-10 committed the acts described herein while acting within the scope of their
9 employment. The District and Superintendent Kedziora are therefore vicariously
10 liable for these acts.

11 214. The County, Sheriff's Department, and Sheriff Bianco in his official
12 capacity were at all times relevant the employers of Defendants Loza and some or
13 all of Does 1-10.

14 215. Defendants Loza and some or all of Does 1-10 committed the acts
15 described herein while acting within the scope of their employment. The County,
16 Department, and Sheriff Bianco are therefore vicariously liable for these acts.

17 216. Plaintiffs are entitled to Damages according to proof, reasonable
18 attorneys' fees, costs of suit incurred herein, and such other and further relief as the
19 Court deems just and proper.

20 **NINTH CLAIM FOR RELIEF**

21 **FALSE IMPRISONMENT**

22 *(All Defendants)*

23 217. Plaintiff incorporates by reference the above paragraphs as though
24 fully set forth herein.

25 218. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10
26 intentionally and unlawfully exercised force or the implied threat of force to
27 restrain or confine C.B. when they committed the acts described herein.

28 219. Each of the known unlawful restraints of C.B. described *supra* lasted

1 for an appreciable amount of time.

2 220. C.B. did not consent to Defendants Scott, Walker, Owens, Loza,
3 Arellano, and Does 1-10's acts, and as a result of their acts suffered severe harm
4 and emotional distress.

5 221. California Government Code § 815.2 provides that a public entity is
6 liable for injury proximately caused by an act or omission of an employee of the
7 public entity within the scope of their employment.

8 222. The District and Superintendent Kedziora in his official capacity were
9 at all relevant times the employers of Defendants Scott, Walker, Owens, Arellano,
10 and some or all of Does 1-10.

11 223. Defendants Scott, Walker, Owens, Arellano, and some or all of Does
12 1-10 committed the acts described herein while acting within the scope of their
13 employment. The District and Superintendent Kedziora are therefore vicariously
14 liable for these acts.

15 224. The County, Sheriff's Department, and Sheriff Bianco in his official
16 capacity were at all times relevant the employers of Defendants Loza and some or
17 all of Does 1-10.

18 225. Defendants Loza and some or all of Does 1-10 committed the acts
19 described herein while acting within the scope of their employment. The County,
20 Department, and Sheriff Bianco are therefore vicariously liable for these acts.

21 226. Plaintiffs are entitled to Damages according to proof, reasonable
22 attorneys' fees, costs of suit incurred herein, and such other and further relief as the
23 Court deems just and proper.

24 **TENTH CLAIM FOR RELIEF**

25 **BATTERY**

26 *(All Defendants)*

27 227. Plaintiff incorporates by reference the above paragraphs as though
28 fully set forth herein.

1 228. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10
2 intentionally committed acts which resulted in harmful or offensive contact with
3 Plaintiff C.B.'s person when they committed the acts described herein.

4 229. During the commission of the acts alleged herein, C.B. did not
5 consent to the contact.

6 230. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10's
7 harmful or offensive contact caused injury or harm to C.B.

8 231. California Government Code § 815.2 provides that a public entity is
9 liable for injury proximately caused by an act or omission of an employee of the
10 public entity within the scope of their employment.

11 232. The District and Superintendent Kedziora in his official capacity were
12 at all relevant times the employers of Defendants Scott, Walker, Owens, Arellano,
13 and some or all of Does 1-10.

14 233. Defendants Scott, Walker, Owens, Arellano, and some or all of Does
15 1-10 committed the acts described herein while acting within the scope of their
16 employment. The District and Superintendent Kedziora are therefore vicariously
17 liable for these acts.

18 234. The County, Sheriff's Department, and Sheriff Bianco in his official
19 capacity were at all relevant times the employers of Defendants Loza and some or
20 all of Does 1-10.

21 235. Defendants Loza and some or all of Does 1-10 committed the acts
22 described herein while acting within the scope of their employment. The County,
23 Department, and Sheriff Bianco are therefore vicariously liable for these acts.

24 236. Plaintiffs are entitled to Damages according to proof, reasonable
25 attorneys' fees, costs of suit incurred herein, and such other and further relief as the
26 Court deems just and proper.

27 ///

28 ///

ELEVENTH CLAIM FOR RELIEF

ASSAULT

(All Defendants)

237. Plaintiff incorporates by reference the above paragraphs as though fully set forth herein.

238. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10 demonstrated the unlawful intent to inflict immediate injury on Plaintiff C.B. when they committed the acts described herein.

239. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10's acts described herein placed C.B. in imminent apprehension of harmful or offensive contact.

240. Defendants Scott, Walker, Owens, Loza, Arellano, and Does 1-10's unlawful intent to inflict immediate injury on C.B. caused him injury or harm.

241. California Government Code § 815.2 provides that a public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of their employment.

242. The District and Superintendent Kedziora in his official capacity were at all relevant times the employers of Defendants Scott, Walker, Owens, Arellano, and some or all of Does 1-10.

243. Defendants Scott, Walker, Owens, Arellano, and some or all of Does 1-10 committed the acts described herein while acting within the scope of their employment. The District and Superintendent Kedziora are therefore vicariously liable for these acts.

244. The County, Sheriff's Department, and Sheriff Bianco in his official capacity were at all relevant times the employers of Defendants Loza and some or all of Does 1-10.

245. Defendants Loza and some or all of Does 1-10 committed the acts described herein while acting within the scope of their employment. The County,

1 Department, and Sheriff Bianco are therefore vicariously liable for these acts.

2 246. Plaintiffs are entitled to Damages according to proof, reasonable
3 attorneys' fees, costs of suit incurred herein, and such other and further relief as the
4 Court deems just and proper.

5 **TWELFTH CLAIM FOR RELIEF**

6 **NEGLIGENT SUPERVISION**

7 ***(Defendants Moreno Valley Unified School District, Superintendent Kedziora,***
8 ***Scott, and Walker)***

9 247. Plaintiff incorporates by reference the above paragraphs as though
10 fully set forth herein.

11 248. Defendants Scott and Walker were responsible for the supervision of
12 Defendants Arellano, Owens, and some or all of Does 1-10.

13 249. Defendants Arellano, Owens, and some or all of Does 1-10 became
14 unfit to perform the work for which they were hired due to their propensity to
15 subject students to harmful and excessive handcuffings and use of physical force.

16 250. The at least four known, unlawful handcuffings establish that
17 Defendants Scott and Walker had or should have had prior knowledge of
18 Defendants Arellano, Owens, and Does 1-10's propensity to subject C.B. to harm.
19 They also establish that the risk of harm to C.B. from Defendants Arellano,
20 Owens, and Does 1-10's actions was reasonably foreseeable.

21 251. Defendants Scott and Walker's negligence in supervising Defendants
22 Arellano, Owens, and Does 1-10 was a substantial factor in causing C.B.'s harm
23 and injuries.

24 252. California Government Code § 815.2 provides that a public entity is
25 liable for injury proximately caused by an act or omission of an employee of the
26 public entity within the scope of their employment.

27 253. The District and Superintendent Kedziora in his official capacity were
28 at all times relevant times the employers of Defendants Scott, Walker, Owens,

1 Arellano, and some or all of Does 1-10.

2 254. Defendants Scott and Walker committed the negligent supervision
3 described herein while acting within the scope of their employment. The District
4 and Superintendent Kedziora are therefore vicariously liable for these acts.

5 255. Plaintiffs are entitled to Damages according to proof, reasonable
6 attorneys' fees, costs of suit incurred herein, and such other and further relief as the
7 Court deems just and proper.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff C.B. prays that the Court grant the following relief:

10 256. Order and declare that Defendants are violating the rights of Plaintiff
11 C.B. under the U.S. Constitution, Title II of the ADA, Section 504, California
12 Government Code § 11135, Unruh Civil Rights Act, California Constitution, and
13 state common law torts.

14 257. Enjoin Defendants their successors in office, agents, employees and
15 assigns, and all persons acting in concert with them, to:

16 a. Stop school police officers from mechanically restraining students and
17 intervening in low level and disability-related behaviors, up to and
18 including ordering school police officers to cease patrolling District
19 schools.

20 b. Provide C.B. and similarly situated students with positive supports
21 and services in lieu of police intervention so that they may enjoy full
22 and equal access to the District's programs.

23 258. Compensatory, general, and special damages, according to proof.

24 259. Award Plaintiff's attorneys' fees and costs as appropriate and
25 permitted by law.

26 260. Any other relief as this Court finds just and proper.

27 ///

28 ///

DEMAND FOR JURY TRIAL

261. Plaintiff demands a jury trial.

DATED: February 2, 2021

Respectfully submitted,

/s/ Robert Borrelle

ROBERT BORRELLE

LINDSAY APPELL

DISABILITY RIGHTS CALIFORNIA

/s/ Claudia Center

CLAUDIA CENTER

MALHAR SHAH

DISABILITY RIGHTS EDUCATION

& DEFENSE FUND

/s/ Maronel Barajas

MARONEL BARAJAS

ANNA RIVERA

BARAJAS & RIVERA, APC

Attorneys for Plaintiffs