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**Via Facsimile (202) 514-0212,  
U.S. Mail, and Electronic Mail**

Jonathan M. Smith, Chief  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Special Litigation Section  
Washington, D.C. 20530

Email: [Special.Litigation@usdoj.gov](mailto:Special.Litigation@usdoj.gov); [jonathan.smith@usdoj.gov](mailto:jonathan.smith@usdoj.gov)

**Re: Allegations of Violations of the Civil Rights of Institutionalized Persons Act  
in Jefferson County Jail, Birmingham, Alabama**

Dear Chief Smith:

We write on behalf of young people formerly and currently housed in the Jefferson County Jail (“the Jail”) in Birmingham, Alabama.<sup>1</sup> The Southern Poverty Law Center (“SPLC”) has been investigating<sup>2</sup> the Jail for nearly a year. In the course of our investigation, we interviewed dozens of children and conducted over 50 interviews. We also toured the facility. Our findings are alarming.

Children housed at the Jail are exposed to unsanitary living conditions and forced to live either with adult detainees or in solitary confinement—neither of which is an appropriate scenario for the physical and psychological well-being of a child. Housing children in solitary confinement, especially children with existing mental health conditions or previous exposure to trauma, puts their mental health at serious risk.

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<sup>1</sup> Jefferson County Jail is located at 809 Richard Arrington Jr. Blvd. N., Birmingham, AL 35203. The phone number for the jail is (205) 325-5670.

<sup>2</sup> During 2011, SPLC began to monitor conditions for young people under the age of 22 with disabilities housed in the Jail as an agent of the Alabama protection and advocacy agency, Alabama Disabilities Advocacy Program. *See* 42 U.S.C. § 10804(a)(I)(A-B). Beginning in the summer of 2013, SPLC began to interview children under the age of 18 about conditions for all young people—regardless of their disability status—housed in the Jail. SPLC staff did not conduct these interviews pursuant to protection and advocacy authority, but as an advocacy organization. The information set forth below is drawn from interviews with young people in the Jail beginning in summer 2013.

Children in the Jail routinely witness, and are sometimes victims of, physical and sexual abuse at the hands of grown men and women. As a result, these children are constantly on guard to avoid physical and sexual victimization. Although the Jail houses children, it is not equipped to provide the services children need to combat these harmful experiences. The children in the Jail receive none of the mental health or education services that they desperately need because Jail programming was not designed with children in mind. And these children endure these conditions even though they have not been found guilty of any crime. Eventually, most of these children will be released back into the community; their time spent in the Jail will have harmed them physically, developmentally, and psychologically.

The Jefferson County Jail is no place for children.

As explained in detail below, the conditions and practices of the Jail violate the federal rights of these children and, accordingly, violate the Civil Rights of Institutionalized Persons Act of 1980 (“CRIPA”), 42 U.S.C. § 1997a, and warrant investigation by the Attorney General to protect children from the inhuman conditions in the Jail.

## **I. Legal Standards**

CRIPA authorizes the Attorney General to investigate and, when necessary, initiate civil action to obtain appropriate relief from egregious jail conditions that subject detainees to a pattern or practice of deprivation of their constitutionally protected rights or rights ensured by laws of the United States. 42 U.S.C. § 1997. The Attorney General may pursue “equitable relief as may be appropriate to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities.” 42 U.S.C. § 1997A(a).

## **II. Background**

### *A. Jefferson County Jail*

The Jail is operated by the Corrections Division of the Jefferson County Sheriff’s Office, under the ultimate authority of Sheriff Mike Hale. The Sheriff has appointed a Captain to run the day-to-day operations of the Jail. The Sheriff employs deputies and a civilian support staff at the Jail, as well as a medical staff that includes several nurses, one physician, and a part-time psychiatrist for a population of approximately 1,000 inmates.

The Jail houses a mix of pretrial detainees and convicted prisoners (“detainees”), both male and female. The Jail was designed to hold 620 individuals, though it has added beds, but not infrastructure, for another 455.<sup>3</sup> In recent years, the Jail has held well over twice its design capacity. According to records obtained from the Jail, in August 2012, there were 1,367 detainees being held in the Jail but only 1,044 available beds. A year later, in August 2013, there were 1,326 detainees being held in the Jail. Because a smaller secondary jail in Jefferson County recently re-opened and houses another 200 detainees, the population of the Jail is down to 919—still nearly 150% of design capacity.

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<sup>3</sup> Jefferson County, Alabama Sheriff’s Office, Frequently Asked Questions, <http://www.jeffcosheriff.net/faq.php?listcat=Corrections> (last visited May 12, 2014).

The Jail is not only operating far above capacity, it is also severely understaffed. Despite the extraordinary overcrowding, in 2009, the Jail laid off a substantial number of deputies due to budget cuts. By August 2011, the Jail reported only 19 deputies responsible for guarding 1,200 detainees.<sup>4</sup> We are unaware of any increase in staffing since that time.

*B. Under-18 Population and Length of Stay*

Alabama permits children aged 16 and 17 to be automatically charged as adults for certain offenses, and those 14 years and older to be transferred to the circuit court by a juvenile court judge for any offense. Ala. Code § 12-15-203 & 204.

Young people who enter the Jail stay for a long time. According to records provided to SPLC by the Jail, as of October 22, 2013, there were 29 boys and girls who entered the Jail under the age of 18. The average time spent in the Jail for these children before their 18th birthday was 236 days. The average number of days spent in Jail for these children *total* was 313.

*C. Jail Layout*

The Jail consists of nine floors with detainees housed on floors two through eight. Men and boys are housed on floors two, three, four, six, seven, eight and nine, while women and girls are housed on the fifth floor.

<b>Floor</b>	<b>Population</b>
1 <sup>st</sup>	Booking
2 <sup>nd</sup>	Medical Unit and Suicide Watch
3 <sup>rd</sup>	Medical Unit and Disciplinary Segregation
4 <sup>th</sup>	Nonviolent Detainees, Children Under 16 Years Old, Protective Custody
5 <sup>th</sup>	Women’s Floor
5 <sup>th</sup> , C Block	Women’s General Population
5 <sup>th</sup> , B Block	Women’s Medical Unit
6 <sup>th</sup>	Nonviolent General Population
7 <sup>th</sup>	Nonviolent General Population
8 <sup>th</sup>	Violent General Population
9 <sup>th</sup>	Violent General Population and Maximum Security

Most floors are divided into four blocks identified by letters. Depending on the floor, certain blocks are designated for certain purposes, such as housing individuals who are subject to disciplinary action or in need of mental health services.

Each block contains 22 cells that are designed to house two people, with two beds. Because of the severe overcrowding in the facility, one cell usually houses three or four individuals—requiring at least one person to sleep on the floor of the cell. The layout of each floor is the same, with the four blocks built around a command station or “cube” where deputies sit with surveillance equipment to oversee the block. The station is intended to be staffed by at

<sup>4</sup> Carol Robinson, *Jefferson County Jail Faces Staff Cuts Amid Overcrowding*, Birmingham News, Aug. 8, 2011.

least two deputies, although the investigation and multiple reports confirm that the Jail rarely staffs the station at the appropriate level, often relying upon a single deputy.

#### *D. Housing Arrangements*

Despite clear guidance regarding the particular vulnerabilities of children who are housed with adults, the Jail does not comply with the mandates contained in the regulations for the Prison Rape Elimination Act (“PREA”). *See* 28 C.F.R. § 115.14. There is no consideration given to sight and sound separations or separate housing arrangements for children, as described in the PREA regulations. Consequently, children experience extraordinary levels of abuse and are continuously exposed to violence, sex, and other exploitative activities.

#### F Block (Youth)

The Jail houses boys under 17 years old and other vulnerable adults in a separate unit on the fourth floor of the facility in F block. Jail staff characterized this block as the “Youth Block” to SPLC staff, but a visit to the block and interviews with young people revealed that it is actually a location for individuals who are in need of protection, regardless of age. For example, a former Birmingham police officer charged with arson was housed in this block. The young people assigned to this unit leave the block when they turn 17—often being moved to floors designated for alleged violent offenders. Most children interviewed by SPLC were placed on the eighth or ninth floor when they turned 17.

#### G Block (Protective Custody)

The Jail has also created a protective custody unit in G block on the fourth floor for adults who are in need of protection and children who have been removed from F block, typically for fighting. The cells are designated for solitary confinement and the block is always on “lock down”; individuals housed there are in isolation for 23 hours a day. Every child SPLC interviewed, except for one, had spent some time housed in G block and, accordingly, in isolation.<sup>5</sup>

#### The “Hole” and Maximum Security

The Jail has crafted two secure discipline statuses in the facility: disciplinary segregation or “the hole,” and maximum security. The hole is used for short-term punishment—up to 30 days. These cells are on the third floor of the Jail and the occupants are on 24-hour lock down. Depending on space, an individual in the hole can have as many as three cellmates, but facility preference appears to be that the punished person spends the time in isolation. All but one of the children SPLC staff interviewed spent time in the hole.

Maximum security is a series of cells that holds violent offenders and individuals subject to long-term punishments (more than 30 days) on the ninth floor. Individuals in maximum security are on 23-hour lock down and do not have any privileges (*i.e.*, access to the telephone, ability to watch television and purchase items from the Jail, etc.). Children report that, depending

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<sup>5</sup> *See infra* Part III.A.

upon the guard on duty, the one free hour may be cut short or completely denied for arbitrary reasons. At least 14 of the children SPLC spoke with have spent time in solitary confinement.

### Women and Girls

Women and girls are housed on the fifth floor. The Jail has designated B block as the maximum security, protective custody, and medical unit for women. Girls in B block remain in their cells for 23 hours a day, with one free hour. Depending on space, women and girls may be confined alone. As with maximum security for men, an individual's free hour may be cut short or denied altogether depending on the deputy on duty. SPLC spoke with two girls who were housed in the Jefferson County Jail. Both spent most of their time in 23-hour isolation as either punishment or protective custody.

### **III. Physical Safety and Psychological Well-Being**

Children housed in adult facilities are among the most vulnerable population in jails and prisons.<sup>6</sup> National studies and research on the harm to youth housed in adult facilities confirms that children are at a higher risk for physical and sexual assault, along with an increased risk for psychological trauma.<sup>7</sup> The conditions for children in the Jail perfectly correspond with the dangers identified in these studies. Children in the Jail endure lengthy time periods in solitary confinement, are subjected to inappropriate sexual contact and conduct, have to be continuously on guard for physical assault, and are subject to verbal and physical abuse from guards.

These traumatic experiences damage these young people and exacerbate any existing mental health issues. Witnessing traumatic events negatively impacts the well-being and mental health of adolescents, including their emotional, behavioral, cognitive, psychological, and physical functioning.<sup>8</sup> Children who experience traumatic events are at far greater risk for future mental health problems than children who do not experience such trauma.<sup>9</sup> Nonetheless, young people held in the Jail are routinely subjected to trauma that puts their well-being at risk and constitutes cruel and unusual punishment. The average length of stay for children in the Jail indicates that these young people endure this trauma for long periods of time. Even if the Jail provided better protection and services for children in its custody, it is virtually impossible to protect youth in adult facilities. The dangers associated with housing youth in general population rival the harms that flow from solitary confinement. Indeed, the conditions for youth in the Jail exemplify the case against housing children with adults.

#### *A. Solitary Confinement and Isolation*

The Jail's use of solitary confinement is evidence of its inability to safely and appropriately house children. As discussed below, housing youth in the general population is

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<sup>6</sup> NATIONAL PRISON RAPE ELIMINATION COMMISSION, REPORT 18 (2009), <http://www.ncjrs.gov/pdffiles1/226680.pdf>.

<sup>7</sup> *Id.*

<sup>8</sup> See generally M.W. Armsworth & M. Holaday, *The Effects of Psychological Trauma on Children and Adolescents*, J. COUNSELING & DEV. 72(1), at 49-56 (1993).

<sup>9</sup> See D.S. Pine, *Developmental Psychobiology and Response to Threats: Relevance to Trauma in Children and Adolescents*, BIOLOGICAL PSYCHIATRY, 53, at 796-808 (2003).

dangerous because of the threat of violence and sexual abuse by older detainees. The use of solitary confinement, however, is also damaging to children’s psychological well-being. Despite this reality, children in the Jail are routinely held in solitary confinement for lengthy periods of time as a form of protective custody or as punishment for disciplinary infractions.

All the children SPLC spoke with had been held in solitary confinement, either in protective custody, maximum security, or the hole, for periods ranging from two weeks to nine months. The conditions in solitary confinement cells are difficult for anyone, but are particularly psychologically harmful for children. In the hole, lights remain on in the cell all day and night. In both maximum security and the hole, children sleep on a thin mat covering a hard metal slab at night and staff remove the mat during the day. Children in the hole and maximum security have been prohibited from taking showers—sometimes for as long as a week. Time in the hole is 24-hour lock down. While maximum security is supposed to be 23-hour lock down, detainees and children sometimes do not receive the free hour to which they are entitled. Children in the hole and maximum security are prohibited from participating in General Education Development (“GED”) services and using the law library.<sup>10</sup>

The harm that solitary confinement has caused children in the Jail is apparent. For example, Bethany, a girl who arrived at the Jail when she was 16 years old, has spent almost 330 days of her two and one-half year stay at the Jail in solitary confinement, locked in her cell 23 hours a day. Bethany has received multiple disciplinary infractions as a result of fights with inmates who have threatened her.<sup>11</sup> Bethany has endured repeated stints of isolation, the longest lasting nine months. On one occasion, she begged to come out of isolation after having been held there for six consecutive months, saying repeatedly, “I promise not to cause any more trouble; please give me another chance and let me out.”

Eric, a 17-year-old, has been in solitary confinement since October 2013. He was placed in protective custody after he was brutally attacked in his cell.<sup>12</sup> Several adult detainees beat his head into the ground and slit his throat with razors. Eric’s attorney sought a court order that required the Jail to house him separately from the general population for his own protection. Even though Eric faces grave danger in the general population, he still wants to leave protective custody due to the mental strain he suffers in isolation.

Nathan arrived at the Jail when he was 16 years old. Due to his timid demeanor he became a target for older inmates to intimidate. To protect himself, he began to initiate fights and, as a result, has had several stays in the hole and maximum security. Following one altercation, Nathan spent three and a half months in maximum security in a cell by himself. At another point, Jail staff placed him in isolated protective custody to protect him from everyone on his block.

Solitary confinement, whether as protective custody or as punishment, is especially harmful to young people who are still developing physically and mentally.<sup>13</sup> Young people’s

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<sup>10</sup> See *infra* Parts V.A, VIII.

<sup>11</sup> See *infra* Part III.B.

<sup>12</sup> See *infra* Part III.C.

<sup>13</sup> Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 Am. J. of Psychiatry 1450, 1452 (1983); Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 Crime & Delinq. 124,

ongoing development makes them susceptible to harm and disproportionately affected by trauma and deprivation.<sup>14</sup> Young people held in solitary confinement can suffer serious psychological harm and are at a higher risk of suicide.<sup>15</sup> Young people held in solitary confinement can also suffer serious physical and developmental harm because they are denied critical services and programming necessary to support their growing minds and bodies.<sup>16</sup> Further, young people with disabilities or with a history of trauma or abuse are especially at risk for suffering psychological, physical, and developmental harm.<sup>17</sup> Indeed, “every major set of national standards governing age- and developmentally-appropriate practices to manage care for youth under age 18 in correctional settings strictly regulates and limits all forms of isolation.”<sup>18</sup> Though the conditions in general population are harmful for children, solitary confinement is a poor alternative. The damage children suffer is further evidence that housing youth in adult facilities is ill-conceived.

### *B. Sexual Harassment and Abuse*

Children in the Jail experience rampant sexual harassment by older detainees, and are exposed to instances of sexual abuse and other inappropriate sexual conduct. Children and young detainees are commonly approached for sexual activity and favors, and are continuously sexually harassed. A common taunt to children is “young and tender, youthful offender.” When a block is on lock down, detainees yell out an individual’s name and when the individual responds, the calling inmate will say “just a ho check-in.” Adam, a 17-year-old boy who arrived at the jail at age 16, reported that an adult inmate took off his clothes while he was in the shower and threatened to get in the shower with him.

Young detainees who are perceived to be the most defenseless are the ready target of potential sexual assault. Children told SPLC staff about the rape of Peter, a young man around 19 years old. Peter has a gentle nature that makes him easy prey. Several children stated that an older detainee called Peter into his cell, ordered him to spread himself against the wall, and then sodomized him. The perpetrator of this assault is known by Jail detainees for targeting vulnerable young detainees for sexual assault. The perpetrator was put in isolation and Peter was placed in protective custody. After the rape, a guard assembled everyone on the block and announced, “We gotta stop all the weed and raping. If it doesn’t stop, I’ll personally make sure it stops.” Despite the guard’s announcement, as of March 2014, the perpetrator was back in general population and had coerced another young man into having sex with him in exchange for food.

To ward off sexual advances and prevent sexual assault, children take an aggressive stance to demonstrate that they are not easy prey. For example, Bethany has endured sexual harassment from detainees since she arrived at the Jail in 2011. Older female detainees described her as “fresh meat” when she arrived. Bethany is perceived as attractive and, as a result, women detainees aggressively attempt to solicit her for sex and yell suggestive taunts at her while she is putting on clothes after showering. To avoid being a victim, Bethany responds aggressively and

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130, 134 (2003); *see generally* Richard Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 Soc. Just. 8 (1988).

<sup>14</sup> *Id.* at 4.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.* at 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* (citing sources).

engages in fights with preying detainees. As a result of the fights, she has spent approximately 11 months of her two and half years in the Jail housed in solitary confinement.<sup>19</sup>

Children are also witness to inappropriate sexual conduct by detainees, including detainees masturbating in full view of others and having sex in areas that can be viewed by others. Charles, a 17-year-old who entered the Jail when he was 16 years old, described witnessing a detainee put his penis through the opening in a cell door and masturbate as a nurse walked through the area.

The above described harassment and exposure to inappropriate sexual conduct are precisely the harms PREA and its corresponding regulations are meant to prevent.

### *C. Threat of Physical Harm and Failure to Protect*

Children in the Jail face grave danger from the adults they are housed with. Adult detainees attempt to intimidate and provoke youth in the Jail—leading to fights between children and adults. Children act aggressively to avoid and survive possible attacks.

Charles described a scenario common in the Jail that is borrowed from prison culture in which a dominant inmate tells a weaker one that he is in “the car” of the other. This means that the weaker inmate is indebted to the dominant and has to provide food and perform menial tasks to pay for the debt and “get out of the car.” Child detainees have been told by other adult detainees that in prison the weaker individual in this scenario has to provide sexual favors to “get out of the car.”

The design layout of the Jail and the staff’s inability or failure to respond to fights fuel the violence in the facility. Fights routinely occur under the stairs on each block of every floor because the area is out of sight of the guards and not in range of the cameras. Eric has witnessed a fight last for as long as ten minutes without any guard responding. Fights also occur in the cell that worker detainees—detainees who perform cleaning tasks as a privilege—use to store cleaning supplies. This cell—the tenth cell on the block—is called the “boxing ring” because the worker detainees help organize the fights that occur there without guards knowing. The inadequate staffing and layout of the Jail make it impossible for guards to be aware of the goings-on in the blocks. Frederick, a 17-year-old boy who arrived at the Jail when he was 16 years old, watched a fight between a 16-year-old and a 20-year-old that lasted approximately five minutes before another inmate alerted a guard to the fight.

Even when guards are aware of fights or potential dangers, they are slow or fail to respond. Guards often ignore intercom calls even when detainees fight and when there is a medical emergency. Guards often tell detainees, “Don’t hit the intercom unless you’re bleeding or dying.”

Even when children *are* bleeding, guards ignore their emergency calls. As mentioned above, Eric was attacked while sleeping on the floor of his cell in October 2013, a little over a week after he arrived at the Jail. Four adult detainees entered his cell, beat his head against the floor multiple times, and cut his throat with razors. The attack was an intimidation tactic to

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<sup>19</sup> See *supra* Part III.A.



dissuade this child from testifying against another individual in court. Following the attack, the boy pressed the intercom button for medical attention, but guards failed to respond for approximately two hours. During that two hour period, a second fight occurred between the boy and one of the attackers. Jail records describe his face as “disfigured.” The boy’s attorney sought and obtained an order to place him in protective custody for his remaining time at the Jail. This young man is currently suffering psychological hardship while in isolation.<sup>20</sup> This situation highlights the dilemma that staff in adult facilities face when discerning safe housing for youth.

Female guards sometimes permit fights on the women’s floor to continue for a while before calling male deputies to break up the fight. Guards on other floors follow suit. Gregory, a youth who arrived at the prison when he was 16, witnessed a fight that occurred in full view of the command station. The guard appeared to intentionally ignore the altercation. Eventually, the fight ended on its own; the guard never intervened. Most guards do not intervene in fights; instead, they wait for the fight to end and then commence dispensing punishment to participants.

Guards are particularly nonresponsive to the intercom in the hole. This is troublesome given the psychological issues young people face when isolated and the potential physical threat they may suffer if housed with a cell mate for 23 hours a day.

Moreover, there does not appear to be an operative “enemy list”—a compilation of detainees with known previous altercations or disagreements—that affects housing decisions for detainees. Following fights and the completion of punishment, children are returned to the same block as the individual who initiated the altercation with them. Children are also often housed in the same block or placed in the same vicinity as their co-defendants or other potential threats, even when the Jail has knowledge of the conflict. Upon entering the Jail, Eric told guards that his eventual attackers were in the block they intended to place him and that they should not house him there. His concern was ignored and he was attacked just days after his arrival.

The violent and aggressive environment in the Jail requires children to learn the negative behaviors of violent detainees in order to survive. In turn, they are more likely to engage in criminal activity when they return to the community<sup>21</sup>—thereby making communities less safe and decreasing the young person’s likelihood of positive life outcomes. The beginning of this dismal trajectory is not only unjust given that these children have not been found guilty of any crime, but also avoidable with appropriate housing conditions for children charged as adults.

#### *D. Verbal and Physical Abuse by Guards*

Guards in the Jail are not trained to work with children or adolescents. Guards routinely curse at children and call them demeaning names. Guards call Henry, a boy who arrived to the Jail at age 17, “crash test dummy.” Guards refer to boys and men as “bitch” to demean their masculinity. Guards also say “I’m going to whoop your ass” to children. A guard ripped up Bethany’s mail, threw it in the toilet, and then asked, “What are you going to do about it?” Also,

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<sup>20</sup> See *supra* Part III.A.

<sup>21</sup> CENTERS FOR DISEASE CONTROL, EFFECTS ON VIOLENCE OF LAWS AND POLICIES FACILITATING THE TRANSFER OF YOUTH FROM THE JUVENILE TO THE ADULT JUSTICE SYSTEM, MMWR 2007;56(No. RR-9), <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.

deputies in the Court Services Division sexually harassed Bethany when she went to court by making vulgar comments about her rear end.

Certain guards are well known for their verbal and physical abuse.<sup>22</sup> A 17-year-old child, Isaac, witnessed one of these guards tase an inmate and then make the inmate crawl around on his hands and knees as punishment for talking back. This guard was eventually transferred to laundry duty, presumably because of his behavior toward detainees.

A guard described his own abusive nature to an SPLC staff member. When a SPLC staff person asked to meet with Frederick, a guard informed her that he had placed Frederick in the hole for being disrespectful. The guard went on to describe his frustrations with the young people in the Jail and how he has to deal with them. During this conversation, the guard made several hand gestures and body movements showing how he would assault a child. After saying, "These young boys . . . I have to . . .," the guard jerked one shoulder forward as if he was barreling into someone. The guard repeated the statement and simulated physical assault multiple times during this conversation. When asked about this guard, Frederick said that the guard displays a particular dislike for young people and often initiates confrontations with them.

This guard's attitude is reflective of guards' excessive use of force against children in the facility. Guards have sprayed Bethany with pepper spray on several occasions. One time, a guard sprayed Bethany with pepper spray for taking too long to get out of the shower. On another occasion, a guard sprayed Bethany after she got into a fight with another inmate. The guard left Bethany in her cell and did not use any decontamination procedures. Bethany did not receive new clothes for a week. During a third instance, a guard sprayed pepper spray underneath the door to Bethany's cell as punishment for her having repeatedly hit the intercom button.

Jacob, a boy who entered the Jail at age 17, described an assault by guards after he was wrongly accused of cursing at inmate workers. When Jacob denied the guard's allegations, the guard twisted his arm and Jacob pulled away. Thereafter, several guards approached Jacob, took him to the ground while one put a knee on his throat. One of the guards used a hold on him that caused him to pass out.

A guard provoked Kyle, a 17-year-old who entered the Jail at 16 years old, into talking back to justify pepper spraying him. While preparing to move to a disciplinary cell because the guard erroneously believed he was screaming without purpose in his cell the night before, Kyle told the guard that he did not do anything. In response, the guard said, "What did you say?" and when Kyle began to speak again he sprayed pepper spray into his mouth. The guard then hit Kyle in the back of the head, causing him to fall forward onto his stomach. Medical records indicate that Kyle suffers from asthma. He asked the guard for water and an asthma pump. Rather than beginning decontamination procedures, the guard placed Kyle in a visitation room for 30 minutes.

Frederick recalls an incident that occurred while he was in the hole when a guard ordered him to return to his cell before the completion of his free hour. When Frederick informed the

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<sup>22</sup> SPLC will provide the Department of Justice with the names of the guards children identified as particularly abusive upon request.

guard that his time was not up yet, the guard—the sole staff person on the floor—left the command station and began to push Frederick forcibly up the stairs to the cell. When Frederick verbally protested, saying that he could walk himself to the cell, the guard responded saying, “Don’t make me do something I don’t want to do.” The guard then pinned him against the wall and then sprayed him in the face and mouth with pepper spray. The guard then placed Frederick back in lock down without beginning decontamination procedures or administering any treatment for the pepper spray exposure.

None of the Jail detainees should be exposed to the above described abusive tendencies, but the impact of this treatment is especially harmful for youth. The children in the Jail are continuing to develop psychologically and physiologically. They will carry the effects of this mistreatment well into adulthood.

#### **IV. Denied and Delayed Medical and Mental Healthcare**

Inadequate and delayed medical and mental healthcare currently impact all persons housed in the Jail, and children are no exception. These young people are in their formative years for physical and psychological development. Research demonstrates that the adolescent brain is not fully developed until the mid-to-late twenties and the human body is continuing to grow during the teenage years. Accordingly, the medical care adolescents receive is especially determinative of their future health.

Inadequate medical and mental healthcare begins when the child enters the Jail. The Jail’s policy on Booking Physicals requires that the Medical Department perform physicals for each individual entering the Jail, including:

- A. a medical history with an emphasis on the last twelve months;
- B. vital signs, blood pressure, pulse respiration and temperature;
- C. blood samples for venereal reaction level;
- D. tests for tuberculosis;
- E. documentation of any injuries noted;
- F. evaluation of personal medications; and
- G. initiation of approved personal medication regimes.

Jail staff does not always adhere to this policy. Most of the children interviewed reported that the health screenings they received were “a joke” and did not include all of the items listed above. Most report that the screening consists of a health professional taking blood pressure and temperature readings. Some report that blood was drawn; others report that no medical tests were performed at all. One boy reports receiving no screening at all and never meeting with a medical professional when he entered the Jail.

##### *A. Inadequate Mental Healthcare*

The Jail is not equipped to provide adequate mental health treatment to children. Although a number of children in the Jail have diagnosed mental health conditions, they are not receiving mental health treatment at the Jail. About half the children SPLC spoke with have mental health conditions that have been previously diagnosed and reported their diagnoses to the

Jail at intake. For other children, conditions have developed over the course of their stay in the Jail. Medications used to treat mental health conditions are not provided consistently. More than a quarter of the children have never received any medication, despite informing the Jail that they were taking medications immediately prior to their arrival to the Jail. Some children resort to using medication prescribed to other detainees to find relief from their symptoms. Jacob made repeated requests for his medication that went unanswered, then simply gave up asking for mental health services.

When young people do receive a mental health evaluation and treatment, that treatment is inadequate to care for them. Prior to being housed in the Jail, Lawrence, a 17-year-old who arrived at the jail when he was 16, was on a number of medications for several conditions including depression, schizophrenia, obsessive compulsive disorder, and attention deficit hyperactivity disorder (ADHD). The Jail has not continued any of his previous medications. His depression, schizophrenia, and obsessive compulsive disorder have gone untreated for approximately a year. Lawrence has also been housed in 23-hour lock down protective custody which has aggravated his conditions. He has racing thoughts and hears and sees imaginary people in his cell. He said “I feel like I’m losing my mind without medication and treatment.” He reports thoughts of hurting himself, but he has not told the guards because he does not want to be placed in suicide watch where detainees are stripped of their clothing.

Another example of the harm that can come from the Jail’s lack of mental healthcare comes from Martin, who arrived to the Jail at age 17. Jail records indicate that Martin was diagnosed with schizophrenia prior to being housed in the Jail. Despite his intake screening revealing that he hears voices and had been hospitalized for an attempted suicide the week before entering the Jail, Martin was placed in general population. He did not receive a complete mental health evaluation until more than two weeks after entering the Jail. His mental health screening revealed that prior to being housed in the Jail, Martin took medication for hearing voices and sleeping problems. The screening also revealed prior attempts at suicide. One of his medications was changed by the Jail to an antipsychotic not often prescribed because of potentially serious side effects including damage to vision. Martin has reported deteriorated vision. Martin has visual hallucinations and paranoia. Jail records indicate that Martin remained in general population for three months before being moved to the mental health block due to his unstable condition. During his time in general population, Martin was assaulted by his cellmate.

In May 2013, Martin was placed on suicide watch. Around this time, he was also referred to disciplinary segregation for approximately ten days for being involved in a fight. According to Jail records, staff was aware of Martin’s instability at the time of the fight, but instead of providing appropriate care, the officer noted in Martin’s file: “Needs mental health refferal [sic] after disciplinary time has ended.” He missed a dose of his medications and was not seen by the mental health professional during that time. In disciplinary segregation, the lights are on around the clock. Martin continued to hear voices and his mental state deteriorated during this time. No attention was paid to Martin’s declining mental health while he was in disciplinary segregation.

Lack of adequate mental healthcare coupled with overcrowding and understaffing creates an environment ripe for new mental health conditions to manifest in the children housed there and intensifies youths’ existing mental health conditions. The Jail is ill-equipped to treat these

young people. Moreover, the very presence of these children in the Jail will worsen their conditions.

### *B. Denied and Delayed Medical Care*

The inadequate and delayed medical care in the Jail affects all detainees, including all of the children in the facility. Adolescence is a physiologically important stage in life because during this time period children are continuing to develop physically. For this reason, the denial and delay of important medical care is especially troublesome for children.

Half the children SPLC spoke with formally complained to the Jail of inadequate medical care through the sick call process, though others complained generally. Almost all children interviewed report inadequate medical care in the Jail. Sick call requests go unanswered for weeks or are completely ignored by guards. When children finally are seen by a healthcare professional, treatment is inadequate. Young people rarely receive medication, even if they took the same medication prior to being housed in the Jail. Nurses appear to hand out Tylenol and “cream” for nearly every ailment, even if neither alleviates the child’s condition. Complaints about pain and health concerns are ignored.

Bethany gave birth four weeks before entering the Jail. She has received absolutely no post-natal care and the stitches she received after giving birth were not removed. Although the Jail was aware that she had recently given birth, she has not received appropriate gynecological care. Bethany has put in numerous sick call requests with the guards for a number of ailments, but none have been addressed. She has had a yeast infection since she came to the Jail and did not receive treatment for the yeast infection for two years, despite the repeated submission of sick call requests.

Jacob and his family discovered he tested positive at intake for exposure to Tuberculosis only after SPLC staff reviewed his medical records and informed him of this fact. Medical records dated March 2013 indicate that Jacob tested positive upon entering the facility and a chest x-ray indicated that the infection was not active. Since that time, however, Jacob has not received any treatment for the infection to prevent it from developing into the disease. He has not been retested since entering the facility to determine if the disease has become active. According to the Centers for Disease Control, treating Tuberculosis infection greatly reduces the likelihood that it will develop into the disease. Despite not receiving any treatment or follow-up tests for his condition, Jacob has been and remains in general population.

Also troubling is that guards and medical personnel wait long periods of time before responding to detainees’ calls for emergency medical attention. The stories children and other detainees have shared demonstrate not only staff that is stretched far too thin, but also staff that is indifferent to the obvious suffering of those housed in their care.

Eric recounted how his head was hit against the ground and his throat was cut with razors during the attack in his cell.<sup>23</sup> After the attack, his head was swollen, bruised, and he was bleeding from the cuts in his neck. At first, Eric did not want to report his injuries, but he started

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<sup>23</sup> See *supra* Part III.C.

to feel as if he would pass out, so he called the guard repeatedly on his intercom. It took two hours for a guard to respond to the intercom and attend to Eric. While waiting for the guard to help him, Eric got into another fight with one of the original attackers, presumably exacerbating his injuries. Once medical personnel reached him, Eric was taken to the medical unit in the Jail and then immediately to the hospital at the University of Alabama at Birmingham. At the hospital, he was told he had a concussion and was given morphine for the pain. He returned to the Jail and was housed in the medical unit for three weeks, but was only given Tylenol for his pain. The hospital directed that Eric should return for follow up, but he has not reported receiving any follow-up care.

An adult detainee, Olivia, demonstrates the manner in which all detainees are treated in the Jail and the disregard for inmate health and well-being in general. Olivia had battled drug addiction prior to being housed in the Jail. When she arrived in December 2013, she was still heavily affected by her drug addiction. On her first night in the Jail, guards placed Olivia in the medical block on the fifth floor in a suicide watch cell by herself. She was left completely naked in the cell with only one blanket and a metal bed frame. Going in and out of consciousness, she recalls bed sores developing on her body from the cold metal frame. She recalled telling the guards on the intercom, “my skin is breaking down,” but she could not remember if she ever got a response. Olivia woke up in the hospital four days later on a ventilator.

Although Olivia does not remember all the events that took place during her first week at the Jail, other detainees have filled in the gaps in her memory. They tell her that when she first arrived, she had seizures and would foam at the mouth. Olivia would scream and throw herself from her bed to the floor. She used the bathroom while on the bed and was covered in her own waste for three days. She was so thin that she could crawl through the food trap in the cell, which is approximately the size of a cement block, and run through the block. The guards would chase her with mace as she ran naked through the block. Another detainee expressed concern to a nurse, but the nurse said, “Just leave her like that.” No one came to check on her for three days. Finally, when they did check on her, they decided she needed medical attention at an outside hospital. Other detainees cleaned Olivia up before nurses collected her on a stretcher bound for the hospital.

In February 2014, Olivia was having pain in her side and vomiting blood. She received no medical attention but was instead put in a cell by herself that was monitored by cameras. The pain in her side persists. She suspects it is related to a recent diagnosis of Hepatitis C, but no one has given her any information about or treatment for that illness.

These accounts demonstrate the deficiencies with the Jail’s medical treatment for detainees. None of the detainees—especially children—should endure these conditions. The conditions clearly violate the Eighth and Fourteenth Amendments. That children are subject to these conditions is even more egregious given that they have not been found guilty of any crime.

## **V. Lack of Educational Services for Children**

Central to advancement and opportunity for children is access to education and appropriate education services. The Jail does not provide any meaningful educational

opportunity for children in the Jail despite the 313-day average length of stay.<sup>24</sup> Moreover, children in protective custody are automatically denied access to these services. The absence of an adequate education decreases the likelihood of future success for these youth. These young people—who have not been found guilty of any crime—will encounter significant obstacles due, at least in part, to the lack of education services during their time in the Jail.

#### *A. General Education Services*

Eighteen of the children SPLC interviewed complain about the lack of educational services at the Jail. The only educational services at the jail are sporadic training for receiving a GED certificate. A number of young people explain that they have not asked to attend GED training because they want to finish high school. Those young people who do attempt to attend the GED program in the Jail have run into roadblocks. Of the children interviewed by SPLC, only two were permitted to participate in the GED courses. Yet, their access to the program was sporadic and inconsistent. Many children report filling out multiple requests to attend the GED program, but those requests go unanswered.

#### *B. Special Education Services*

The Jail denies children who are entitled to special education services their rights pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et. seq. (“IDEA”). Federal law requires that incarcerated children who are identified as being in need of special education services continue to receive those services during incarceration. 20 U.S.C. § 1412(a)(1).

Almost half the children SPLC spoke with either require special education services, or have received such services in the recent past. Yet, no special education services are provided. Although officers have indicated that children are asked about their special education needs when they initially enter the Jail, children are never offered any educational services. The Jail does not employ or arrange for the use of special education teachers or instructors. Moreover, parents of children in the Jail do not receive notice of procedural safeguards. The Jail does not conduct individualized education program planning meetings as required by the IDEA. Moreover, SPLC staff suspect that the number of these children who are in need of special education services are either failing to report or are unaware of their need.

### **VI. Poor Housing Conditions**

Poor living conditions in the Jail have historically been exacerbated by the overcrowding. Despite the recent opening of the Bessemer Jail, detainees, including children, continue to sleep in cells with three or four occupants that were designed for only two occupants. Moreover, there have been plumbing problems in cells. Adam described how the toilet in his cell overflowed, allowing human waste to fall on the floor of the cell where he and another inmate were sleeping. The problem persisted for four days before it was fixed. Adam and his cellmates were never provided with cleaning products.

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<sup>24</sup> See *supra* Part II.B.

Children are unable to engage in basic hygiene. They are permitted to shower only once every four days and change clothing once a week. Fredrick told SPLC staff that while he was in the hole, he was permitted to shower just twice in a 21-day period. Laundry is completed once a week. As a result, detainees wash undergarments in the toilet in their cell.

## **VII. Denial of Due Process Rights**

The right to due process is a basic and unalienable right that the Jail denies to detainees. Jail staff do not inform youth of rules prior to administering punishment, do not consistently make grievance forms available, and do not respond to grievances.

Detainees do not receive a handbook when they arrive at the Jail and learn the rules by watching other detainees or after breaking a rule that they did not know was a rule. Also, discipline procedures are applied inconsistently. Some children in the Jail receive paperwork for disciplinary infractions; they do not receive any review process before going to the hole or maximum security. When staff informs children of discipline procedures and the opportunity to appeal a discipline decision, guards often tell them that doing so will result in longer punishment. A guard told Charles that if he fought his ten-day solitary confinement punishment, he would most likely receive more time in solitary.

The grievance process also has substantial inadequacies. Grievance forms are inconsistently available—guards sometimes refuse to give children grievance forms. When Lawrence complained about a guard’s failure to give him a grievance form, the guard put the boy in the hole for five days on 24-hour lock down.

Even when grievance forms are available, the Jail often does not respond to grievances. Many children have submitted grievances about the lack of access to education or GED classes in the Jail with no response. Children have also grieved clerical errors, such as the misspelling of their name in the system, and have not received a response. Frederick repeatedly informed Jail staff that his name is misspelled in the Jail’s system with no success. He was even taken by a guard to another detainee’s court hearing despite repeatedly alerting the guard to the mistake in identity. In response, the guard told Frederick that he was going to the hearing because “his name is the closest.” At the hearing, the judge realized the mistake. The clerical error has yet to be resolved.

## **VIII. Access to Law Library and Legal Mail**

The Jail inserts major obstacles to children’s access to the law library and legal mail. As a result, youth are unable to adequately advocate on their behalf and communicate with legal advocates regarding matters affecting their incarceration and criminal charges.

There are significant delays in and barriers to accessing the law library in the Jail. Children do not receive responses to requests to visit the law library for months at a time. Also, guards deny children access to the law library. Individuals in protective custody are not permitted access to the law library. Bethany told SPLC staff that female detainees are not allowed in the law library because there are not enough female guards to accompany them.



Moreover, guards fail to give children their legal mail and interfere with children's attempts to send outgoing legal mail. Several children have not received mail from SPLC staff marked "legal mail." Delays in receiving legal mail span from two weeks to three months. A guard took a letter from Lawrence addressed to SPLC and marked "Legal Mail" regarding his need of critical services the Jail denied him. After reading the letter, the guard told Lawrence "you can't send a letter like this" and kept the letter. Lawrence got upset and started to cry. The guard put him in "time out"—the telephone visitation area—for four hours as punishment.

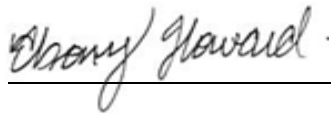
## IX. Conclusion

The conditions described above are troublesome for any person residing in the Jefferson County Jail, but the unique vulnerabilities of children indicate that the conditions are dire for the young people housed there.

These issues highlight the dangers associated with housing children in adult facilities. Because the potential for psychological and physical harm are long-reaching for children and the consequences to society as a whole are alarming, we ask that the Department of Justice exercise its jurisdiction and investigate conditions in the Jefferson County Jail for children. We further ask that the Department pursue available remedies and solutions, including working with the Jail to identify alternate housing arrangements for children.

If we can provide any further information, please feel free to contact us.

Sincerely,



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Ebony Howard  
Senior Staff Attorney and Juvenile Justice Policy Analyst



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Caren Short  
Staff Attorney