

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

E.J., ex rel ELEXECIA MARTIN
A.B., ex rel SANDRA BRIEN
J.B.#1, ex rel JACQUELINE BRINKLEY
J.B.#2, ex rel JACQUELINE BRINKLEY
K.W., ex rel KANISA DAVIS

ON BEHALF OF THEMSELVES AND
ALL OTHERS SIMILARLY SITUATED

Plaintiffs

vs.

CHRYSTAL TEMPLETON,

**RUTHERFORD COUNTY,
TENNESSEE, and**

**CITY OF MURFREESBORO,
TENNESSEE**

Defendants.

NO. 3:16-cv-1975

CAUSES OF ACTION:
Civil Rights Violations

CLASS ACTION
JURY TRIAL DEMANDED

JUDGE CRENSHAW

MAGISTRATE JUDGE HOLMES

PLAINTIFFS' SECOND AMENDED COMPLAINT – CLASS ACTION

1. Plaintiff E.J., by and through her mother, Elexecia Martin, on behalf of herself and all other similarly situated, brings action for damages, declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 against Defendant Chrystal Templeton, an officer of the Murfreesboro City Police Department; Rutherford County, Tennessee; and the City of Murfreesboro.

2. Plaintiffs J.B.#1 and J.B.#2, by and through next friend, Jacqueline Brinkley, on behalf of themselves and all others similarly situated, bring this action for damages, declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 against Defendant Chrystal Templeton, an officer of the Murfreesboro City Police Department; Rutherford County, Tennessee; and the City of Murfreesboro.

3. Plaintiff A.B., by and through her next friend, Sandra Brien; and K.W, by and through his next friend, Kanisa Davis, on behalf of themselves and all other similarly situated, brings this action for damages, declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 against Defendant Rutherford County.

PARTIES

4. Plaintiff **E.J.** is a child under the age of eighteen (18) years. **E.J.** is the daughter of **Elexecia Martin**. Both are residents of Rutherford County, Tennessee.

5. Plaintiff **A.B.** is a child under the age of eighteen (18) years. **A.B.** is the daughter of Sandra Brien. Both are residents of Madison County, Tennessee.

6. Plaintiff **J.B.#1** is a child under the age of eighteen (18) years. **J.B.** is the daughter of Jacqueline Brinkley. Both are residents of Rutherford County, Tennessee.

7. Plaintiff **J.B.#2** is a child under the age of eighteen (18) years. **J.B.** is the son of Jacqueline Brinkley. Both are residents of Rutherford County, Tennessee.

8. Plaintiff **K.W.** is a child under the age of eighteen (18) years. **K.W.** is the son of Kanisa Davis. Both are residents of Rutherford County, Tennessee.

9. Defendant **Chrystal Templeton** was at all relevant times an officer of the Murfreesboro City Police Department and is a resident of Rutherford County, Tennessee.

10. Defendant **Rutherford County** is a municipal government entity organized under the laws of the State of Tennessee.

11. Defendant **City of Murfreesboro** is a municipal government entity organized under the laws of the State of Tennessee.

JURISDICTION AND VENUE

12. This action arises out of the mistreatment suffered by the Plaintiffs at the hands of the Defendants in Rutherford County, Tennessee. This action further arises out of the mistreatment that hundreds or thousands of other similarly situated juveniles have suffered or will suffer at the hands of the municipal Defendants.

13. This action arises under the United States Constitution and under the laws of the United States of America, particularly under the provisions of the Fourth and Fourteenth Amendments of the United States Constitution, and particularly under the Civil Rights Act, codified at 42 U.S.C. § 1983 *et seq.*

14. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1343.

15. Venue lies in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiffs claims occurred in this District.

16. Plaintiff E.J. brings suit against the Defendant Templeton in her individual capacity.

FACTUAL ALLEGATIONS

RUTHERFORD COUNTY’S “ALWAYS ARREST” POLICY FOR JUVENILES

17. Rutherford County and the City of Murfreesboro maintain an “Always Arrest” policy and practice with regard to the service of juvenile delinquency petitions. Under this practice, every delinquency petition against a juvenile, including misdemeanor petitions, is served by physically taking the child into custody and delivering him or her to the Juvenile Detention Center.

18. Tennessee law establishes mandatory liberty rights for children to be free from physical arrest on misdemeanor delinquency petitions unless (a) the delinquent acts occurred in the presence of the arresting officer, (b) the delinquent acts constitute one of a small set of specified misdemeanors for which custodial arrest is authorized even if the offense occurred outside the presence of the officer, or (c) the Juvenile Court issues an arrest order based on particularized findings that an arrest is necessary for safety purposes or to prevent the child from absconding. T.C.A. § 37-1-113, § 40-7-103; Tennessee Rules of Juvenile Procedure, Rule 11 (repealed as of July 1, 2016); Tennessee Rules of Juvenile Procedure 109 (effective as of July 1, 2016).

19. Tennessee law mandates that if none of these exceptional circumstances apply, children cannot be physically arrested for pending misdemeanor petitions and such petitions can only be served via summons to appear in court. The summons must be served on either the child (if the child is 14 years or older) or the child’s parents (if the child is less than 14 years old). T.C.A. § 37-1-121 (repealed as of July 1, 2016); T.C.A. §37-1-122 (in effect as of July 1, 2016); Tennessee Rules of Juvenile

Procedure Rule 11 (repealed as of July 1, 2016); Tennessee Rules of Juvenile Procedure 109 (effective as of July 1, 2016).

20. The Due Process clause of the Fourteenth Amendment to the U.S. Constitution protects children's rights to procedural due process with regard to this state-created liberty right against custodial arrest. Because the "Always Arrest" policy deprives children of their right to a particularized determination regarding whether an arrest order should issue for misdemeanors not committed in the arresting officer's presence, the policy deprives children of their Fourteenth Amendment procedural due process rights.

21. On information and belief, the Rutherford County Juvenile Court Judge initiated and maintains the "Always Arrest" policy by instructing the Murfreesboro City Police and other Rutherford County Law Enforcement agencies to comply with it, and to essentially treat juvenile delinquency petitions as if they were "warrants." (Ex. A, Report of Findings of Incident Review Committee: Hobgood School Juvenile Arrests, at 5 – 6; *see also* Ex. B, Rutherford Juvenile Detention Center Standard Operating Procedures, at 56).

22. The initiation and maintenance of the County-wide "Always Arrest" policy is a non-judicial act for which the Juvenile Court Judge does not enjoy absolute immunity.

23. On information and belief, the Murfreesboro City Police and other Rutherford County Law Enforcement agencies comply with and implement the

Juvenile Court Judge’s “Always Arrest” policy. (Ex. A, Report of Findings of Incident Review Committee: Hobgood School Juvenile Arrests, at 5 – 6).

24. The Rutherford County Juvenile Detention Center (“JDC”) participates in implementing the “Always Arrest” policy by accepting children arrested on misdemeanor delinquency petitions into its custody and temporarily detaining them while its staff determine whether the child qualifies to be incarcerated pretrial under T.C.A. § 37-1-114. While JDC staff may ultimately release the arrested child to his or her parents, until that decision is made they detain the child at the JDC.

25. The Rutherford County Juvenile Court Judge is the ultimate administrator over the Rutherford JDC.

RUTHERFORD COUNTY’S “FILTER SYSTEM” OF PRETRIAL INCARCERATION FOR JUVENILES

26. Tennessee state law sets strict limits on the pretrial incarceration of children charged with delinquent or unruly offenses. T.C.A. §§ 37-1-114 and 37-1-116. These statutes make it strictly illegal to incarcerate a child in a secure detention facility unless there is probable cause to believe that (1) there is no less restrictive alternative that would reduce the risk of flight or serious physical harm to the child or others, including placement with a parent, guardian, custodian, relative, licensed foster home, juvenile “group home,” or licensed child care facility, AND (2) there is probable cause to believe that:

- a. The child committed an offense resulting in death or serious bodily injury, or a likelihood of death or serious bodily injury;

- b. The child committed a handgun or other weapon carrying offense;
- c. The child committed any other offense involving the likelihood of death or serious bodily injury, or an offense constituting a felony, violation of probation, or violation of aftercare, AND the child:
 - i. Is currently on probation;
 - ii. Is currently awaiting court action on a previously alleged delinquent offense;
 - iii. Is alleged to be an escapee or absconder from a juvenile facility, institution, or other court-ordered placement; or
 - iv. Has, within the previous twelve (12) months, willfully failed to appear at any juvenile court hearing, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious bodily injury or death, or been adjudicated of an offense that would constitute a felony if committed by an adult.
- d. The child committed a delinquent offense, and there are special circumstances regarding the child's health, safety, or risk of flight justifying secure detention; however, in this circumstance a judicial finding of these special circumstances must occur within 24 hours of the secure detention intake.
- e. The child is alleged to be an escapee from a secure juvenile facility or institution;

- f. The child is wanted in another jurisdiction for an offense that would constitute a felony if committed by an adult;
- g. The child is an unruly child who has violated a valid court order or who is a runaway from another jurisdiction; however, detention under these circumstances must be supported by a judicial finding within 24 hours, and is limited to 72 hours total.

27. Thus, T.C.A. § 37-1-114 conveys mandatory liberty rights to children against pretrial incarceration in a “secure facility” except in exceptional, clearly-delineated circumstances.

28. Rutherford County Juvenile Detention Center is a “secure facility” within the meaning of T.C.A. §§ 37-1-114.

29. While the substantive liberty rights conveyed by Tennessee state law are clear, state law fails to dictate clear guidance as to the process that must be applied in executing those laws. The only statute that discusses the relevant process, T.C.A. § 37-1-117, states simply that the “intake or other authorized officer of the court” must make the initial determination regarding whether or not the § 37-1-114 criteria are met. That said, the statute does mandate that the child be released if the intake officer determines that the secure detention criteria are not met. The statute goes on to require that if the intake officer detains the child, the child is entitled to a judicial hearing within 72 hours (or 84 hours including weekends and holidays) regarding the propriety of pretrial incarceration under § 37-1-114.

30. Rutherford County publishes its Juvenile Detention Center (“JDC”) policies and procedures in its “Rutherford County Juvenile Detention Center Standard Operating Procedures” (hereinafter “SOP”) manual. (Ex. B, SOP).

31. The section of the SOP dealing with staff’s initial “Detain or Release” decisions tells staff that they should use the “Filter System” described later in the manual to determine whether or not a child should be incarcerated pretrial. *Id.* at 57.

32. The Filter System is presented at page 60 of the SOP. *Id.* at 60.

33. The Filter System is full of incorrect and vague information, and explicitly advises detention staff to securely detain juveniles who do not meet the criteria for secure detention detailed in T.C.A. § 37-1-114.

34. For instance, the Filter System incorrectly instructs that a child should only be released on a delinquent charge filed by a law enforcement officer if the child is “deemed not a TRUE threat to themselves or the community by a JDC staff w/ a ranking of at least Corporal.” (Ex. A, SOP, at 61).

35. In addition, the Filter System incorrectly instructs that detention is MANDATORY for children who are currently under court supervision (pretrial diversion, court order, conditional release, or probation) and are charged with:

a. Domestic assault;¹

b. DUI;²

¹ A misdemeanor offense ineligible for secure detention under § 37-1-114.

² A misdemeanor offense ineligible for secure detention under § 37-1-114.

- c. Reckless Burning;³
- d. Stalking;⁴
- e. Any offenses alleging injuries to victim(s);⁵
- f. Weapon offenses,⁶ or;
- g. Felony offenses.⁷

36. The Filter System instructs that delinquent charges filed by private citizens who are not “backed up” by law enforcement should be subjected to a higher level of scrutiny than claims by law enforcement are, and that these claims must be handled by JDC staff of Corporal rank or higher. The Filter System instructs that the “goal” is to only detain children who are a true threat to themselves or the community; however, it provides no substantive limits whatsoever as to the types of offenses that children can be detained on. (Ex. B, SOP at 61).

37. The Filter System instructs that situations of private citizens with “vengeful motives or ridiculous claims must be separated from situations where private citizens have a legitimate safety concern,” but also states, “In the event of inconclusive evidence, JDC staff will err on the side of safety.” (Ex. B, SOP at 61).

38. On information and belief, the phrase “err on the side of safety” as used in the SOP means to securely detain the child. *Id.*

³ A misdemeanor offense ineligible for secure detention under § 37-1-114.

⁴ A misdemeanor offense ineligible for secure detention under § 37-1-114.

⁵ This catch-all includes many misdemeanor offenses ineligible for secure detention under § 37-1-114.

⁶ While weapon offenses can be eligible for secure detention under § 37-1-114, secure pretrial detention is never mandatory.

⁷ While felony offenses committed while already under court supervision can be eligible for secure detention under § 37-1-114, secure pretrial detention is never mandatory.

39. On information and belief, Rutherford County JDC routinely subjects children to pretrial incarceration who are ineligible for secure detention under T.C.A. § 37-1-114, in violation of their state-created liberty rights. Children are commonly illegally incarcerated for two to three days before a judicial hearing is conducted.

40. On information and belief, even at judicial detention hearings the Rutherford County Juvenile Court routinely prolongs the pretrial incarceration of children who do not meet secure detention criteria under T.C.A. § 37-1-114.

41. On information and belief, Rutherford County's SOP, and specifically the erroneous Filter System, is the direct cause of most or all of these illegal detention decisions.

E.J.'S CASE

42. On or about March 20, 2016, a cell phone video was taken of two small children, a six and a seven-year old, trying to taunt a larger child into fighting them in the yard of a private residence by following the larger child and hitting him in the back. The larger child was unfazed, and simply walked away from the little kids.

43. Eleven other children were nearby, and some of them encouraged the little kids and taunted the larger child for not fighting the kids.

44. One of the nearby children was EJ, the Plaintiff. EJ is a ten-year-old girl, who at the time was a Fourth Grader at Hobgood Elementary. EJ had never once been in trouble at school.

45. EJ did not encourage the kids to fight. Instead, as recorded by the video EJ tried to stop the kids from fighting, imploring the smaller child to stop swinging at the larger child by saying "Stop Tay-tay, stop Tay-tay, stop Tay-tay!"

46. On or about April 14, 2016, the video came to the attention of Murfreesboro City Police Officer Chrystal Templeton.

47. During Officer Templeton's investigation, she identified EJ as one of the eleven children who was in the yard during the incident.

48. Officer Templeton contacted EJ's mother, Elexecia Martin. She told Ms. Martin about the video and said that she needed help identifying all the children who were present so that she could deal with the situation "informally."

49. Officer Templeton assured Ms. Martin that the children were not in trouble. Ms. Martin agreed to bring her children and meet with Officer Templeton so that they could identify all those present.

50. During this meeting, EJ identified herself to Officer Templeton as the girl shouting "stop Tay-tay" and explained that she was telling the boys to stop because she did not want anyone to get hurt. Ms. Martin and EJ also helped identify some of the other children in the video.

51. Officer Templeton thanked Ms. Martin and her children for their help, reassured them that no one was in trouble, and terminated the encounter.

52. On April 14th, 2016, Officer Templeton informed Hobgood Elementary School Principal Dr. Tammy Garrett that she would be arresting the students from the video on Friday, April 15th, 2016.

53. Officer Templeton assured Dr. Garrett that no child would be handcuffed, that she would be on site to do the arrests, and that the arrests would be handled in a "low-key" manner.

54. As word of Officer Templeton's plan disseminated among the faculty of Hobgood Elementary on April 14th, administrators expressed their concerns to members of the Murfreesboro City Police Department.

55. Lisa Trail, director of communications contacted Sergeant Scott Newberg with such concerns.

56. Dr. Garrett expressed such concerns throughout Thursday April 14th and Friday April 15th to various officers of the Murfreesboro City Police Department. Officer Templeton informed Dr. Garrett that the arrests would proceed and instructed her not to contact the children's parents beforehand.

57. Officer Chris Williams arrived at Hobgood Elementary School on Friday, April 15, and shortly thereafter learned of Officer Templeton's plan to arrest the children, including E.J.

58. Chris Williams objected directly to Officer Templeton. He advised against the arrests and threatened not to participate.

59. Officer Templeton reported Officer Williams' insubordination. Officer Williams expressed his concerns through the chain of command. Sergeant Scott Newberg, Uniformed Division Supervisor, ordered Officer Williams to assist with the arrests.

60. Officer Williams immediately contacted Police Major Clyde Adkison, head of the Administrative Services division. Again, Officer Williams protested against the arrest. Again, he was ordered to participate in the arrests.

61. Officer Williams then tried to bargain with Officer Templeton, arguing that the arrests should not happen at the school and asking if he could contact the children's parents to alert them beforehand. Officer Templeton said no – the arrests will happen at school, and the children's parents will not be contacted beforehand.

62. As the school day neared its end on April 15, 2016, Dr. Garrett disobeyed Officer Templeton's orders against contacting the children's parents. In tears, Dr. Garrett secretly called Ms. Martin and warned her of the impending arrest of E.J.

63. Despite assurances to the contrary, Officer Templeton was not present for the arrests. Children were handcuffed. The arrests were not "low-key."

64. As E.J. typically did at the end of each school day, she waited to board the school bus. Before she could leave, school officials took her back inside. They detained her there while waiting on Murfreesboro City Police Officers to return from transporting other children to the Rutherford County Juvenile Detention Center.

65. Once E.J. learned that she was going to be arrested, she begged for her mother. She cried. She vomited on the floor.

66. Ms. Martin arrived while her daughter was still being held at the school. Other officers arrived as well. Ms. Martin asked Officer Williams if she could simply take her daughter to juvenile detention in the family vehicle, but he said "No."

67. Officer Williams followed his orders and arrested E.J. But, first he asked if it would be okay to stop, hold hands, and say a prayer. After the prayer, Officer Williams took E.J. into custody, handcuffed her, and transported her to the Rutherford County Juvenile Detention Center ("JDC") in the back of his patrol car.

68. EJ was booked into the JDC on the juvenile petition, and then released to her mother shortly thereafter.

69. The charges against EJ were ultimately dismissed by Juvenile Court Judge Donna Scott Davenport on July 8th, 2016.

70. Officer Templeton was present for this hearing, and recommended the dismissal as she commended E.J. 's family's "respect" and "cooperation."

71. EJ suffered great mental anguish and emotional trauma as a result of the arrest, transport to JDC, and prosecution.

72. On April 15, 2016, Defendant Templeton arrested EJ, the Plaintiff, instead of summoning her because of Rutherford County's "Always Arrest" policy. The delinquent petition on which Templeton arrested E.J. alleged only a single offense: accomplice liability for a misdemeanor simple assault. Tennessee law does not designate simple assault as one of the offenses for which warrantless arrest is authorized, and the alleged offense did not occur in Templeton's presence.

73. Prior to EJ's arrest, the Juvenile Court had not made a particularized determination regarding whether an arrest was necessary for safety reasons or to prevent EJ from absconding, and had not issued an arrest order or order of attachment. Indeed, instead of an arrest order the petition contained only the following summons:

SUMMONS
IN THE JUVENILE COURT OF RUTHERFORD COUNTY, TN

TO ANY LAWFUL OFFICER OF THE STATE:
SUMMON the above-named child Juvenile and parents or custodian to appear before the Juvenile Court for, RUTHERFORD COUNTY Tennessee, Juvenile Services Center, 1710 S. Church Street, Murfreesboro, TN 37130 on the _____ of _____ at _____ to answer the above charges and to have the above-named child in Court at that time, under penalties of law.

74. In fact, an arrest was not necessary for safety purposes or to prevent EJ from absconding.

75. In its review of the April 15, 2016 Hobgood Elementary arrests, the Murfreesboro City Police's Incident Review Committee expressed serious concerns regarding the propriety of Rutherford's "Always Arrest" policy. (Ex. A, Report of Findings of Incident Review Committee: Hobgood School Juvenile Arrests, at 5 – 6).

76. On information and belief, notwithstanding the Review Committee's concerns, the Murfreesboro City Police Department continues to acquiesce to and implement Rutherford County's illegal "Always Arrest" policy, as do the other Rutherford County law enforcement agencies.

77. On information and belief, numerous other similarly situated children have, like EJ, been illegally arrested on misdemeanor delinquency petitions in Rutherford County because the County's "Always Arrest" policy deprived them of their Constitutionally-protected right to a particularized determination regarding whether an arrest was necessary for safety reasons or to prevent them from absconding.

J.B.#1 AND J.B.#2'S CASE

78. JB#1 and JB#2 were charged as co-defendants with EJ in the "Criminal Responsibility for the Conduct of Another" juvenile delinquency petition filed on April 15, 2016.

79. Officer Chrystal Templeton brought the charges against JB#1 and JB#2 and orchestrated their arrests, as she orchestrated the arrest of EJ.

80. Both children were, at that time, twelve years old. Because neither were students of Hobgood Elementary School, and they were not in school on April 15, 2016, they were not arrested on that date.

81. On April 15, 2016, Officer Chrystal Templeton called Jacqueline Brinkley (JB#1 and JB#2's mother) to inform her that her children had "warrants" out for their arrest. Ms. Brinkley asked for information concerning the nature of the charges, but Officer Templeton refused to give any details.

82. Officer Templeton then explained to Ms. Brinkley that either her children would be arrested at school or that officers would come to Ms. Brinkley's home to arrest the children.

83. On Saturday, April 16, 2016, two officers of the Murfreesboro City Police Department arrived at Ms. Brinkley's home.

84. The officers informed Ms. Brinkley that her children had warrants for their arrest and that she would be taken to the Rutherford County Juvenile Detention Center. Ms. Brinkley asked if she could drive her children to RCJDC, but the officers refused.

85. The officers handcuffed Ms. Brinkley's children together and transported them from Ms. Brinkley's home to RCJDC in the back of the police vehicle.

86. After being booked in and spending approximately one hour in RCJDC, JB#1 was released to her mother.

87. JB#2 was not released along with his sister. When Ms. Brinkley asked RCJDC staff why her son was not released, she was told that he had a “court hold” and that he would have a hearing on Monday, April 18, 2016.

88. JB#2 was released without a hearing on Monday April 18, 2016.

89. Prior to either child’s arrest, the Juvenile Court had not made a particularized determination regarding whether an arrest was necessary for safety reasons or to prevent JB#1 or JB#2 from absconding, and had not issued an arrest order or order of attachment. The arrests of both children were made pursuant to Rutherford County’s illegal “Always Arrest” policy.

90. JB#2 did have a pending delinquency charge for which he was previously released from RCJDC and that charge was still pending on April 16, 2016. Despite JB#2’s pending charge, he was not eligible for secure detention on the basis of the “Criminal Responsibility for the Conduct of Another” petition. He was illegally incarcerated pursuant to the “Filter System” policy of RCJDC.

91. As a result of her unlawful arrest, JB#1 suffered damages including but not limited to personal humiliation, mental anguish, and emotional distress.

92. As a result of his unlawful arrest and incarceration, JB#2 suffered damages including but not limited to personal humiliation, mental anguish, and emotional distress.

A.B.'S CASE

93. On or about September 19th, 2014, a juvenile delinquency petition was taken out in the Rutherford County Juvenile Court against AB for Assault, Assault, Vandalism under \$500, and Stalking, all misdemeanor offenses.

94. At this time, AB was ten years old. This juvenile delinquency petition was the first against AB, and she was not subject to secure detention pursuant to T.C.A. § 37-1-114.

95. On or about Friday, September 19th, 2014, AB was arrested and transported to the Rutherford County Juvenile Detention Center. She was incarcerated until Monday, September 22, 2014, pursuant to the RCJDC's "Filter System" policy.

96. As a result of her unlawful incarceration, AB suffered damages including but not limited to personal humiliation, mental anguish, and emotional distress.

K.W.'S CASE

97. On May 6th, 2014, a petition for delinquency was taken out by Rutherford County Sheriff's Deputy Roscoe Sanders charging KW with misdemeanor Assault.

98. The petition was based on a video recovered by the officer depicting a fight in which KW was a participant. The fight did not occur in the presence of the officer.

99. Prior to KW's arrest, the Juvenile Court had not made a particularized determination regarding whether an arrest was necessary for safety reasons or to

prevent KW from absconding, and had not issued an arrest order or order of attachment. Instead of an arrest order, the petition contained only the following summons:

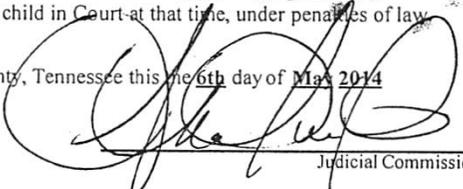
SUMMONS

IN THE JUVENILE COURT OF RUTHERFORD COUNTY, TN

TO ANY LAWFUL OFFICER OF THE STATE:

SUMMON the above-named child Juvenile and parents or custodian to appear before the Juvenile Court for, RUTHERFORD COUNTY, Tennessee, Juvenile Services Center, 1710 S. Church Street, Murfreesboro, TN 37130 on the 11th of August 2014 at 09:00 AM to answer the above charges and to have the above-named child in Court at that time, under penalties of law.

Witness the undersigned officer of the Juvenile Court of Rutherford County, Tennessee this the 6th day of May 2014


Judicial Commissioner

100. Nonetheless, KW was arrested at Oakland High School pursuant to Rutherford County's "Always Arrest" policy on May 6th, 2014, and brought to the Rutherford County Juvenile Detention Center.

101. At this time, KW was fourteen years old. This juvenile delinquency petition was the first against KW, and he was not subject to secure detention pursuant to T.C.A. § 37-1-114.

102. Once he was transported to RCJDC, KW was incarcerated pursuant to the "Filter System" policy of RCJDC prior to a probable cause hearing.

103. Even after the detention hearing, KW continued to be incarcerated for several more days, despite his ineligibility for secure detention pursuant to T.C.A. § 37-1-114.

104. As a result of his unlawful arrest and incarceration, KW suffered damages including but not limited to personal humiliation, mental anguish, and emotional distress.

THE ARREST AND INCARCERATION OF CHILDREN IS EXTREMELY HARMFUL

105. Arrest and detention of children cannot be taken lightly, as study after study document its deleterious effects on children and society.

106. Incarceration of juveniles increases recidivism. Children placed in secure detention are as much as 13.5 times more likely to return to the system. Benda, B.B. and Tollet, C.L. (1999), "A Study of Recidivism of Serious and Persistent Offenders Among Adolescents." *Journal of Criminal Justice*, Vol. 27, No. 2 111-126.

107. Congregating delinquent youth together negatively affects their behavior and increases their chance of re-offending. Researchers call this process "peer deviancy training," and report statistically significant higher levels of substance abuse, school difficulties, delinquency, violence, and adjustment difficulties in adulthood for those youth held in a peer group setting, like juvenile detention centers. The researchers found that "unintended consequences of grouping children at-risk for externalizing disorders may include negative changes in attitudes toward antisocial behavior, affiliation with antisocial peers, and identification with deviancy." Dishion, T. J., McCord, J, and Poulin, F. (1999), "When Interventions Harm: Peer Groups and Problem Behavior." *American Psychologist* Vol. 54, No. 9 755-764.

108. Arrest and detention "systemizes" youth. Children who have been arrested and detained "go deeper" into the system, and are more likely to face adjudication and disposition from the system, disrupting families and visiting upon these children all of the negative effects known to exist for family disruption.

109. Arrest and detention interfere with normal developmental processes by which children typically “age out” of delinquent behavior through the normal process of maturation. Most children who engage in delinquent behavior naturally desist such behavior by adulthood, but arrest and detention interferes with this normal maturing process, such that children who are arrested and detained are more likely to persist in such behaviors.

110. Detention makes mentally ill youth worse. Research published in *Psychiatry Resources* showed that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration. 4 Kashani, J.H., Manning, G.W., McKnew D.H., Cytryn, L., Simonds, J.F. and Wooderson, P.C. (1980), “Depression Among Incarcerated Delinquents,” *Psychiatry Resources* Vol. 3, 185-191.

111. “The transition into incarceration itself,” wrote one researcher in the medical journal, *Pediatrics*, “may be responsible for some of the observed [increased mental illness in detention] effect.” Forrest, C.B., Tambor, E., Riley, A.W., Ensminger, M.E. and Starfield, B. (2000), “The Health Profile of Incarcerated Male Youths.” *Pediatrics* Vol. 105, No. 1 286-291.

112. Detention puts youth at greater risk of self-harm. Researchers have found that incarcerated youth experience from double to four times the suicide rate of youth in the community at large. Parent, D.G., Leiter, V., Kennedy, S., Livens, L., Wentworth, D. and Wilcox, S. (1994), *Conditions of Confinement: Juvenile Detention*

and Corrections Facilities, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

113. Juvenile correctional facilities often incorporate responses to suicidal threats and behavior in ways that endanger the youth further, such as placing the youth in isolation, a practice that is mandatory at the Rutherford County Detention Facility.

114. Detained youth with special needs fail to return to school. Juvenile detention interrupts young people's education, and once incarcerated, some youth have a hard time returning to school. A Department of Education study showed that 43 percent of incarcerated youth receiving remedial education services in detention did not return to school after release, and another 16 percent enrolled in school but dropped out after only five months. LeBlanc (1991), *Unlocking Learning*; Chapter 1 in *Correctional Facilities*, Washington, DC: US Department of Education.

115. Another researcher found that most incarcerated 9th graders return to school after incarceration but within a year of re-enrolling two-thirds to three-fourths withdraw or drop out of school: After four years, less than 15 percent of these incarcerated 9th graders had completed their secondary education. Balfanz, R., Spiridakis, K., Neild, R. and Legters, N. (2003), "Neighborhood Schools and the Juvenile Justice System: How Neither Helps the Other and How that Could Change." Presented at the School to Jail Pipeline Conference, Harvard University.

116. Young people who leave detention and who do not reattach to schools face collateral risks: High school dropouts face higher unemployment, poorer health

(and a shorter life), and earn substantially less than youth who do successfully return and complete school.

117. The failure of detained youth to return to school also affects public safety. The U.S. Department of Education reports that dropouts are 3.5 times more likely than high school graduates to be arrested as adults. U.S. Department of Education (1994), Mini-digest of Education Statistics. Washington, DC: National Center for Education Statistics.

118. Placing youth in detention reduces their usefulness to themselves and society in the labor market. Looking at youth age 14 to 24, Princeton University researchers found that youth who spent some time incarcerated in a youth facility experienced three weeks' less work a year (for African-American youth, this figure increases five weeks less work a year) as compared to youth who had no history of incarceration. Western, Bruce and Beckett, Katherine (1999), "How Unregulated Is the U.S. Labor Market?: The Penal System as a Labor Market Institution," *The American Journal of Sociology*, 104: 1030-1060.

119. In Rutherford County, under the "Always Arrest" policy, children who have the right to remain free are instead arrested and brought to detention. These children are held in detention from a few hours to several days before a judicial review is done to determine whether probable cause existed for their arrest, or to determine whether any detention was necessary.

120. As a result of the “Always Arrest” and “Filter System” policies, almost every child in Rutherford County against whom any delinquency Petition is sworn faces some or all of the negative consequences researchers repeatedly identify.

121. There is no corresponding public benefit that results from arresting and incarcerating children without due process.

122. On information and belief, Rutherford County’s “Always Arrest” policy continues in effect and causes children to be illegally arrested on a daily basis.

123. On information and belief, Rutherford County’s “Filter System” policy continues in effect and causes children to be illegally incarcerated on a daily basis.

CLAIMS FOR RELIEF

COUNT I:

VIOLATION OF FOURTEENTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS BASED ON STATE-CREATED LIBERTY INTERESTS

(RUTHERFORD COUNTY’S “ALWAYS ARREST” POLICY)

(42 U.S.C. § 1983)

(EJ, JB#1, JB#2, KW AND CLASS AGAINST DEFENDANT RUTHERFORD COUNTY FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF)

(EJ, JB#1, JB#2 ALSO AGAINST CITY OF MURFREESBORO, AND OFFICER TEMPLETON FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF)

124. Plaintiffs hereby re-allege and incorporate as if restated fully herein the allegations in all paragraphs above.

125. Tennessee law uses explicitly mandatory language and substantive predicates to dictate procedures for determining whether juveniles charged with misdemeanor delinquency petitions may be arrested, or whether they can only be summoned to appear in court:

Explicitly Mandatory Language and Substantive Predicates (<u>Emphasis added</u>)	Liberty Interest
<p style="text-align: center;">Tenn. R. Juv. Procedure 11 (Repealed July 1, 2016)</p> <p>Orders for the attachment of children <u>shall</u> only issue for <u>extraordinary</u> matters and under the following circumstances</p> <p>(a) Failure to Appear. When a child fails to appear at a hearing or conference to which the child has been properly summoned or personally notified to appear, the magistrate or judge may issue an order of attachment; or</p> <p>(b) Requirements for Issuance of Orders in Other Cases. Where an order of attachment is sought to be issued in any other case the following requirements must be met:</p> <p>(1) The judge or magistrate must determine, from the juvenile court petition and the affidavit and/or sworn testimony presented, that there is probable cause to believe that an offense has been committed and that the child committed it or, in the case of a child alleged to be dependent and neglected, that the child is in need of the immediate protection of the court. In making this probable cause determination, the judge or magistrate shall be governed by the following:</p> <ul style="list-style-type: none"> (i) The statement of a person requesting an order of attachment must be reduced to writing and made upon oath; (ii) The written affidavit must provide sufficient factual information to support an independent judgment that probable cause exists for the issuance of the order of attachment; and (iii) Service of a summons would be ineffectual or the credibility of both the informant and the informant's information must also appear in the affidavit. <p>(2) Pursuant to T.C.A. § 37-1-121, the judge or magistrate must also find that:</p> <ul style="list-style-type: none"> (i) The conduct, condition or surroundings of the child are endangering the child's health or welfare or that of others; or (ii) The child may abscond or be removed from the jurisdiction of the court; or (iii) Service of a summons would be ineffectual or the parties are evading service. 	<p>Right against being arrested except upon an order of attachment, based on specific findings, and issued in a specific form</p>

<p>(3) If the judge or magistrate determines that both requirements (1) and (2) above have been satisfied, then he or she may order that the child be taken into custody immediately and brought before the court in accordance with Rule 5.</p>	
<p style="text-align: center;">Tenn. R. Juv. Procedure 109 (Effective July 1, 2016)</p> <p>Orders for the attachment of children <u>shall</u> be based upon a judicial determination that there is probable cause to believe that the child is in need of the immediate protection of the court because:</p> <ul style="list-style-type: none"> (1) The conduct, condition or surroundings of the child are endangering the child's health or welfare or that of others; or (2) The child may abscond or be removed from the jurisdiction of the court; or (3) Service of a summons or subpoena would be ineffectual or the parties are evading service. <p>The statement of a person requesting the order of attachment <u>must</u> be by affidavit or sworn testimony reduced to writing and must provide sufficient factual information to support an independent determination that probable cause exists for the issuance of the order. <u>If</u> hearsay evidence is relied upon, the affidavit or testimony <u>must</u> include the basis for the credibility of both the declarant and the declarant's statements.</p> <p>(b) Failure to Appear. When a child fails to appear at a hearing or other court-scheduled proceeding to which the child has been properly served or directed by appropriate court personnel to appear, the court may, on its own initiative or on the basis of a sworn writing, issue an attachment.</p> <p>(c) Terms of Order. The order for attachment <u>shall</u> order that the child be brought immediately before the court or that the child be taken into custody in accordance with Rule 203 or 302.</p>	<p>Right against being arrested except upon an order of attachment, based on specific findings, and issued in a specific form</p>
<p style="text-align: center;">T.C.A. § 37-1-113</p> <p>(a) A child may be taken into custody:</p> <ul style="list-style-type: none"> (1) Pursuant to an order of the court under this part; (2) Pursuant to the laws of arrest; 	<p>The right to remain free from physical restraint without court order or otherwise</p>

<p>(3) By a law enforcement officer, social worker of the department of human services, or duly authorized officer of the court, if there are reasonable grounds to believe that the conditions specified in § 37-1-114(a)(2) exist; or</p> <p>(4) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from the child's parents, guardian or other custodian.</p> <p>(b) The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of Tennessee or the Constitution of the United States.</p>	<p>pursuant to the laws of arrest</p>
<p style="text-align: center;">T.C.A. § 37-1-121 (Repealed July 1, 2016)</p> <p>The court <u>shall</u> direct the issuance of a <u>summons</u> to the legal parents, guardian or other custodian, a guardian ad litem and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if the child is fourteen (14) years of age or more or is alleged to be a delinquent or unruly child.</p> <p><u>If</u> it appears from affidavit filed or from sworn testimony before the court that the conduct, condition or surroundings of the child are endangering the child's health or welfare or those of others, or that the child may abscond or be removed from the jurisdiction of the court or will not be brought before the court notwithstanding the service of the summons, <u>the court may</u> endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring the child forthwith before the court.</p>	<p>The right to be summoned instead of arrested absent extraordinary circumstances, and the right to be arrested only upon issuance of a custodial order by the court</p>
<p style="text-align: center;">T.C.A. § 37-1-122</p> <p>After the petition has been filed, the clerk shall schedule a time for a hearing and issue summons to the parties. In case the summons cannot be served or the party served fails to obey the same, and in any case <u>where it is made to appear</u> to the court that such summons will be ineffectual, an attachment <u>may</u> issue, on the order of the court, against the [parent, guardian, custodian or child].</p>	<p>The right to be summoned on a petition for delinquency unless a summons is shown to be ineffectual</p>

T.C.A. § 40-7-103

(a) An officer may, without a warrant, arrest a person:

- (1) For a public offense committed or a breach of the peace threatened in the officer's presence;
- (2) When the person has committed a felony, though not in the officer's presence;
- (3) When a felony has in fact been committed, and the officer has reasonable cause for believing the person arrested has committed the felony;
- (4) On a charge made, upon reasonable cause, of the commission of a felony by the person arrested;
- (5) Who is attempting to commit suicide;
- (6) At the scene of a traffic accident who is the driver of a vehicle involved in the accident when, based on personal investigation, the officer has probable cause to believe that the person has committed an offense under title 55, chapters 8 and 10. This subdivision (a)(6) shall not apply to traffic accidents in which no personal injury occurs or property damage is less than one thousand dollars (\$1,000), unless the officer has probable cause to believe that the driver of the vehicle has committed an offense under § 55-10-401;
- (7) Pursuant to § 36-3-619;
- (8) Who is the driver of a vehicle involved in a traffic accident either at the scene of the accident or up to four (4) hours after the driver has been transported to a health care facility, if emergency medical treatment for the driver is required and the officer has probable cause to believe that the driver has violated § 55-10-401;
- (9) When an officer has probable cause to believe a person has committed the offense of stalking, as prohibited by § 39-17-315;
- (10) Who is the driver of a motor vehicle involved in a traffic accident, who leaves the scene of the accident, who is apprehended within four (4) hours of the accident, and the officer has probable cause to believe the driver has violated § 55-10-401; or

The right to be free from warrantless arrest unless an enumerated exception applies

(11) Pursuant to § 55-10-119.

(b) If a law enforcement officer has probable cause to believe that a person has violated one (1) or more of the conditions of release imposed pursuant to § 40-11-150, and verifies that the alleged violator received notice of the conditions, the officer shall, without a warrant, arrest the alleged violator regardless of whether the violation was committed in or outside the presence of the officer.
[. . .]

126. All of the above Tennessee laws provide for mandatory substantive outcomes: (1) No juvenile will be subjected to a warrantless arrest for a misdemeanor, unless the offense occurs in the arresting officer's presence or is one of the specific offenses excepted from this rule; and (2) An arrest order will only issue for a child on a pending delinquency petition if the court has made particularized findings that an arrest is necessary for safety purposes or to prevent the child from absconding.

127. By maintaining a blanket "Always Arrest" policy for all delinquency petitions, Rutherford County and the City of Murfreesboro have violated the Plaintiffs' Constitutionally-protected right to procedural due process by illegally arresting them without having made particularized findings that an arrest is necessary for safety purposes or to prevent the child from absconding.

128. These illegal arrests have traumatized EJ, JB#1, JB#2, KW and other Class members, and has caused mental anguish, emotional and other damages. EJ, JB#1, JB#2, KW and the Class members are entitled to compensation for these damages.

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COUNT II:
VIOLATION OF FOURTEENTH AMENDMENT RIGHT TO PROCEDURAL DUE
PROCESS BASED ON STATE-CREATED LIBERTY INTERESTS
(RUTHERFORD COUNTY’S “ILLEGAL DETENTION” POLICY)
(42 U.S.C. § 1983)
(K.W, A.B., J.B.#2 AND CLASS AGAINST DEFENDANT RUTHERFORD
COUNTY FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF)

129. The plaintiffs hereby re-allege and incorporates as if restated fully herein the allegations in all paragraphs above.

130. Tennessee law uses explicitly mandatory language and substantive predicates to dictate procedures for determining whether juveniles charged with delinquency petitions may be incarcerated pre-trial.

131. Tennessee law makes it patently illegal to securely detain children who do not meet the criteria stated in T.C.A. §37-1-114.

132. Rutherford County’s procedure for determining which children to incarcerate pretrial is woefully deficient. Indeed, the Juvenile Detention Center’s Standard Operating Procedures manual erroneously instructs its staff regarding execution of the “Release or Detain” decision in the following ways:

a. Erroneously instructs that children can be jailed for any delinquent offense, rather than just a limited, circumscribed set of serious offenses;

b. Erroneously instructs that pretrial jail is *mandatory* for children who are charged with various misdemeanor offenses if the child is already under court supervision, when in reality T.C.A. § 37-1-114 *prohibits* secure detention for such children;

c. Fails to instruct JDC staff that even in cases where the juvenile is charged with a detention-eligible offense, staff must still investigate and assess whether a less restrictive alternative to incarceration would sufficiently ensure the child's safety, the safety of the community, and the child's appearance at court;

d. Erroneously instructs that children whose parents do not appear to retrieve them must remain jailed in secure detention;

e. Erroneously instructs JDC staff that if they are in doubt about what to do they should incarcerate the child.

133. Because of its grave errors, Rutherford County's "Filter System" effectively deprives children of the mandatory liberty rights guaranteed to them by T.C.A. §37-1-114.

134. Relying on the SOP's erroneous "Filter System," Rutherford JDC staff illegally incarcerated Plaintiffs AB and KW pretrial even though none of the Plaintiffs met the criteria for secure detention under T.C.A. § 37-1-114.

135. On information and belief, because of Rutherford County's erroneous "Filter System" procedure JDC staff illegally incarcerate hundreds of children each year in violation of T.C.A. § 37-1-114.

136. These illegal incarcerations have traumatized AB, JB#2, KW and other Class members, and has caused mental anguish, emotional and other damages. AB, JB#2, KW and the Class members are entitled to compensation for these damages.

CLASS ALLEGATIONS

137. Plaintiffs brings this Class action on behalf of themselves and all others similarly situated, for the purpose of asserting the claims alleged in Count I and II of this Complaint on a common basis.

138. A class action is a superior means, and the only practicable means, by which Plaintiff and unknown Class members can challenge the Defendants' illegal "Always Arrest" and "Filter System" policies.

139. This action is brought and may properly be maintained as a Class action pursuant to Rule 23(a)(1)-(4), Rule 23(b)(2), and Rule 23(b)(3) of the Federal Rules of Civil Procedure.

140. This action satisfies the numerosity, commonality, typicality, and adequacy requirements of those provisions.

141. Regarding the "Always Arrest" policy, Plaintiffs propose the following classes for which they seek relief:

Subclass A ("The Prospective Class") (for declaratory and injunctive relief): All juveniles subject to arrest on a misdemeanor delinquency Petition who are subject to the "Always Arrest" Policy, such that they may be arrested in Rutherford County on a misdemeanor delinquency petition without (a) a law enforcement officer personally witnessing the offense, (b) the alleged offense belonging to the small number of named misdemeanors for which a warrantless arrest is specifically authorized, or (c) a court order based on

particularized findings that the arrest is necessary for safety reasons or to prevent the child from absconding.

Subclass B (“The Damages Class”) (for compensatory damages):

All juveniles arrested on a misdemeanor delinquency Petition pursuant to the “Always Arrest” Policy during the last ten (10) years, if they have been arrested in Rutherford County on a misdemeanor delinquency petition without (a) a law enforcement officer personally witnessing the offense, (b) the alleged offense belonging to the small number of named misdemeanors for which a warrantless arrest is specifically authorized, or (c) a court order based on particularized findings that the arrest is necessary for safety reasons or to prevent the child from absconding.

142. Regarding the “Filter System” policy, Plaintiffs propose the following classes for which they seek relief:

Subclass A (“The Prospective Class”) (for declaratory and injunctive relief):

All juveniles subject to illegal pretrial incarceration who are either (a) not charged with a detention-eligible offense, or (b) charged with a detention eligible offense, but eligible for alternatives to pretrial incarceration as a less restrictive means of ensuring community safety, the safety of the child, and the child’s appearance in court.

Subclass B (“The Damages Class”) (for compensatory damages):

All juveniles who have been illegally jailed pursuant to the “Filter System” during the past ten (10) years, where the child was either (a) not charged with a detention-eligible offense, or (b) charged with a detention eligible offense, but eligible for alternatives to pretrial incarceration as a less restrictive means of ensuring community safety, the safety of the child, and the child’s appearance in court.

a. NUMEROSITY. Fed. R. Civ. P. 23(a)(1)

143. Over the past several months and years, Rutherford County and the City of Murfreesboro have arrested hundreds of children on misdemeanor delinquency petitions as described above pursuant to the “Always Arrest” policy. Pursuant to the Defendants’ policies and practices, all Rutherford County juveniles who are the respondents to misdemeanor petitions for delinquency are subject to illegal arrest.

144. Likewise, Rutherford County has illegally incarcerated hundreds of children pursuant to its “Filter System.” Many of these children would have been either released or at least placed in a non-secure setting if Rutherford’s Filter System were conducted in accordance with T.C.A. § 37-1-114.

145. The names, case numbers, petitions, dates of arrest, dates of detention, and all relevant records of the class members are in the possession of the Defendants and are easily ascertainable. Furthermore, these records are confidential and not available without court order.

b. COMMONALITY. Fed. R. Civ. P. 23(a)(2).

146. The relief sought on each respective claim is common to all members of each Class, and common questions of law and fact exist as to the members of each Class. The Plaintiffs seek relief requiring that those policies, practices and procedures be changed to protect their rights in the future.

147. As to the “Always Arrest” claim, common questions of law include, but are not limited to, the following:

- a. whether juveniles charged with misdemeanor delinquency petitions have certain state-created Constitutionally-protected liberty interests;
- b. whether the juvenile arrest policy of the Defendants violates them, and
- c. whether the violation should be enjoined.

148. The “Always Arrest” claim has common questions of fact which include, but are not limited to, the following:

- a. the existence, scope, and enforcement of Defendants’ policies requiring the arrests of all juveniles charged with delinquency petitions; and
- b. the harm visited upon juveniles from unnecessary and unlawful arrest.

149. These common questions arise from one central set of policies and practices: those of Rutherford County pertaining to the arrest of juveniles. This policy does not vary from Class member to Class member – it is applied to all juveniles who find themselves charged with a misdemeanor petition for juvenile delinquency. The resolution of these legal and factual issues will determine whether all the members of the class are entitled to relief, and what that relief should be.

150. As to the “Filter System” claim, common questions of law include, but are not limited to, the following:

- a. Whether juveniles charged with delinquency petitions have state-created Constitutionally-protected liberty rights to not be incarcerated pre-trial;
- b. whether Rutherford County’s Filter System deprives children of their procedural due process rights with regard to these state-created liberty rights;
- c. whether the violation should be enjoined.

151. The “Filter System” claim has common questions of fact which include, but are not limited to, the following:

- a. the existence, scope, and implementation of Rutherford County’s Filter System procedure; and
- b. the harm visited upon juveniles from unlawful pretrial incarceration.

152. These common questions arise from one central set of policies and practices: those of Rutherford County’s illegal Filter System. This policy does not vary from Class member to Class member – it is applied to all juveniles who go through intake at the Rutherford County Juvenile Detention Center. The resolution of these legal and factual issues will determine whether all the members of the class are entitled to relief, and what that relief should be.

c. TYPICALITY. Fed. R. Civ. P. 23(a)(3)

153. As to both the “Always Arrest” claim and the “Filter System” claim, the named Plaintiffs’ claims are typical of the claims of the members of each Class, and the named Plaintiffs have the same interests in this case as all other members of the Classes that they represent. Plaintiffs and all Class members suffered injuries from the failure of the Defendants to comply with the constitutional and statutory duties detailed above. The answer to whether the Defendants’ policies and practices are unlawful in the ways alleged will determine the claims of the named Plaintiff and every other Class member.

154. If the named Plaintiffs succeed in their claims that the Defendants’ policies and practices concerning warrantless arrests of juveniles and the illegal pretrial incarceration of juveniles violate the law in the ways alleged, then that ruling will likewise benefit every other member of the Class.

d. ADEQUACY. Fed. R. Civ. P. 23(a)(4).

155. The named Plaintiffs are adequate representatives of each Class because they are members of each Class and because their interests coincide with, and are not antagonistic to, those of each Class. There are no known conflicts of interest among Class members, all of whom have a similar interest in vindicating the constitutional rights to which they are entitled.

156. The Plaintiffs are represented by attorneys from Downton Clark, PLLC, and attorney Kyle Mothershead. All of Plaintiffs’ attorneys have experience in litigating complex civil rights matters in federal court as well as juvenile delinquency

petitions in Tennessee state court, and have extensive knowledge of both the details of the Defendants' policies and the relevant constitutional and statutory law.

157. Plaintiffs' counsel have interviewed witnesses, community members, and medical experts on the issues surrounding the arrest and detention of juveniles without an order. Counsel have conducted extensive research into the effects of arrest and detention on juveniles.

158. As a result, counsel have devoted considerable time and resources to becoming intimately familiar with the Defendants' policies and procedures, as well as the relevant state and federal laws and procedures that should govern them.

159. Counsel for the Plaintiff possesses the resources to prosecute this case zealously.

160. The interests of the members of the Class will be fairly and adequately protected by the Plaintiff and their attorneys.

e. Rule 23(b)(2)

161. Class action status is appropriate because the Defendants, through the policies, practices, and procedures above described, have acted and/or refused to act on grounds generally applicable to the Damages Classes. A finding that Defendants have violated their rights, and that they are entitled to damages, would benefit all members of the Damages Class.

162. Declaratory and injunctive relief compelling the Defendants to comply with these constitutional requirements will similarly protect each member of the Prospective Classes from being subjected to the Defendants' unlawful policies and

practices. Therefore, declaratory and injunctive relief with respect to the Prospective Class as a whole is appropriate.

f. Rule 23(b)(3)

163. Class treatment under Rule 23(b)(3) is also appropriate because the common questions of law and fact overwhelmingly predominate in this case. This case turns, for the named Plaintiffs, as well as for the members of each Class, on what the Defendants' policies and practices are and on whether those policies are lawful.

164. The common questions of law and fact listed above are dispositive questions in the case of every member of each Class. The question of liability can therefore be determined on a class-wide basis. Class-wide treatment of liability is a far superior method of determining the content and legality of the Defendants' policies and practices than individual suits by hundreds or thousands of Rutherford County residents.

**COUNT III:
FALSE ARREST IN
VIOLATION OF THE FOURTH AMENDMENT
(42 U.S.C. § 1983)
(PLAINTIFF E.J. AND DEFENDANT TEMPLETON ONLY--DAMAGES)**

165. Plaintiff hereby re-alleges and incorporates as if restated fully herein the allegations in all paragraphs above.

166. Both the standards and procedures for arrest flow from the Fourth Amendment to the United States Constitution. The Fourth Amendment prohibits an arrest that is not based on probable cause, defined as facts and circumstances

sufficient to warrant a prudent person in believing that the suspect had committed or was committing an offense.

167. Based on her investigation, her review of the video, and her meeting with Ms. Martin and E.J., Officer Templeton knew or should have known that there existed no probable cause to arrest E.J.

168. It is well-established that an individual's mere presence at a crime scene does not constitute probable cause for an arrest.

169. In drafting the delinquency petition against E.J., Officer Templeton intentionally omitted material facts known to her at the time, specifically E.J.'s shouting "Stop Tay-tay, stop Tay-tay, stop Tay-tay," during the fight.

170. Despite a complete absence of evidence to support the allegation and in spite of strong evidence to the contrary, Officer Templeton swore that E.J. "encouraged and caused" the alleged assault depicted in the video.

171. Officer Templeton instigated and directed the arrest of the Plaintiff on April 15, 2016, at approximately 4:00 p.m. As a result, the Plaintiff was detained at her school, prevented from going home to her mother, placed in the back of a police car, taken to the Rutherford County Juvenile Detention Center, and booked into the Juvenile Detention Center.

172. Officer Templeton's arrest of EJ without probable cause violated EJ's rights protected by the Fourth Amendment of the United States Constitution.

173. Officer Templeton performed, or failed to perform, all of the actions set forth herein under color of law.

174. As a direct and proximate result of the Defendant's actions, the Plaintiff suffered damages including, among others, the following: severe shock, emotional distress, humiliation, sleeplessness, depression, and loss of enjoyment of life.

175. Plaintiff is entitled to compensation for the damages she suffered.

**COUNT IV:
MALICIOUS PROSECUTION IN
VIOLATION OF THE FOURTH AMENDMENT
(42 U.S.C. § 1983)
(PLAINTIFF EJ AND DEFENDANT TEMPLETON ONLY--DAMAGES)**

176. E.J. hereby re-alleges and incorporates as if restated fully herein the allegations in all paragraphs above.

177. Officer Templeton made the decision to prosecute the "Criminal Responsibility" petition against E.J. She swore out the petition alleging that E.J. "encouraged and caused" an assault with no evidence to support the allegation and in spite of evidence that it was E.J. who could be heard trying to stop the fight.

178. Based on her investigation, Officer Templeton knew or should have known that E.J. had no criminal responsibility for anything that happened in the video. It is well-established that an individual's mere presence at a crime scene does not constitute probable cause for an arrest.

179. Therefore, there was no probable cause to support the prosecution.

180. Officer Templeton further influenced the prosecution of the criminal charge by collaborating with other officers in the Murfreesboro Police Department in order to force the compliance of unwilling subordinates such as Officer Chris Williams.

181. The charges against E.J. resulted in a deprivation of her liberty, in that she was taken in to custody, held against her will, placed in a police car, and taken to the Rutherford County Juvenile Detention Center. She was summoned and forced to answer Officer Templeton's charge in juvenile court.

182. Defendant Templeton acted with malice when she charged E.J. with a criminal offense where no probable cause existed. Officer Templeton demonstrated this by (a) instructing others, including Officer Chris Williams and Dr. Tammy Garrett, *not* to inform E.J.'s mother of the impending arrest; (b) lying to Dr. Garrett regarding how the arrests would take place; and (c) ignoring the objections of the officer whom she required to carry out the arrest.

183. The charges against E.J. were ultimately resolved in the E.J.'s favor when the case was dismissed on July 8th, 2016.

184. Officer Templeton's institution of proceedings against and prosecution of EJ without probable cause violated EJ's rights protected by the Fourth Amendment of the United States Constitution.

185. Officer Templeton performed, or failed to perform, all of the actions set forth herein under color of law.

186. As a direct and proximate result of the Defendant's actions, the Plaintiff suffered damages including, among others, the following: severe shock, emotional distress, humiliation, sleeplessness, depression, and loss of enjoyment of life.

187. Plaintiff is entitled to compensation for the damages she suffered.

REQUEST FOR RELIEF

WHEREFORE, the Plaintiffs request judgment against all Defendants as follows:

1. That the court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that the Defendants' "Always Arrest" policy, alleged in Count I, is an unlawful violation of the Fourteenth Amendment to the U.S. Constitution;

2. That the Court enter an order and judgment preliminarily and permanently enjoining the Defendants from enforcing the unconstitutional and illegal "Always Arrest" policy described in Count I;

3. That the court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 finding that Defendant Rutherford County's "Filter System" policy, alleged in Count II, is an unlawful violation of the Fourteenth Amendment to the U.S. Constitution;

4. That the Court enter an order and judgment in Count II preliminarily and permanently enjoining the Defendants to amend the "Filter System" in order to provide due process in the determination of whether or not the T.C.A. § 37-1-114 criteria for pretrial incarceration on delinquent petitions is met;

5. That Plaintiffs and all members of the "Always Arrest" Damages Class be awarded all damages to which they are entitled by the proof submitted in this cause, including both nominal and compensatory damages;

6. That Plaintiffs and all members of the "Filter System" Damages Class be awarded all damages to which they are entitled by the proof submitted in this cause, including both nominal and compensatory damages;

7. That Plaintiffs and all class members be awarded attorney's fees pursuant to 42 U.S.C. § 1988, plus compensation for any expert fees and other costs reasonably expended in pursuing this matter;

8. That Plaintiffs and all class members be awarded pre- and post-judgment interest;

9. That Plaintiff E.J. be awarded compensatory and punitive damages for her individual Fourth Amendment claims against Defendant Templeton;

10. That this cause be tried by a jury;

11. That Plaintiffs and all class members be awarded all other relief to which it may appear they are entitled, the interests of justice demanding it.

Respectfully submitted,

/s/ Wesley B. Clark
WESLEY B. CLARK, #32611
DOWNTON CLARK, PLLC
2706 LARMON DR.
NASHVILLE, TN 37204
T: 615-984-4681 / F: 615-514-9674
wesley@downtonclark.com

/s/ Mark J. Downton
MARK J. DOWNTON, #20053
DOWNTON CLARK, PLLC
2706 LARMON DR.
NASHVILLE, TN 37204
T: 615-984-4681 / F: 615-514-9674
mark@downtonclark.com

/s/ Kyle F. Mothershead
KYLE F. MOTHERSHEAD, #22953
LAW OFFICE OF KYLE MOTHERSHEAD
414 UNION ST., SUITE 900
NASHVILLE, TN 37219
T: 615-982-8002 / F: 615-229-6387
kyle@mothersheadlaw.com

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically on October 14, 2016. The following parties will be notified by operation of the Court's electronic filing system:

Robert M. Burns, #15383
Howell & Fisher, PLLC
Court Square Building
300 James Robertson Parkway
Nashville, TN 37201-1107
Attorney for Defendant Chrystal Templeton

Josh A. McCreary
Nicholas C. Christiansen
Cope, Hudson, Reed & McCreary, PLLC
16 Public Square North
Murfreesboro, Tennessee 37130
Attorneys for Rutherford County, Tennessee

Kristin E. Berexa
Farrar & Bates, LLP
211 Seventh Ave., N, Suite 500
Nashville, TN 37219
Attorney for City of Murfreesboro

/s/ Wesley B. Clark