

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Civil No. 18-cv-80810 – Dimitrouleas/Matthewman**

H.C., a minor, by and through his parent and natural guardian, Jenny C.; M.F., a minor, by and through his parent and natural guardian, Asisa Rolle, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

RIC BRADSHAW, Palm Beach County Sheriff, in his official capacity; SCHOOL BOARD OF PALM BEACH COUNTY,

Defendants.

**SETTLEMENT AGREEMENT**

1. **THIS SETTLEMENT AGREEMENT** (hereinafter referred to as the “Agreement”) as to the class injunctive claims is made and entered into as of the date this Agreement is signed, by and among the Defendants Sheriff Ric Bradshaw (“Sheriff’s Office”), in his official capacity, and the School Board of Palm Beach County (“School Board”) on behalf of themselves and all their officers, directors, employees, former employees, agents, predecessors, divisions, successors, administrators, and assigns (collectively “Defendants”), and H.C., a minor, by and through his parent and natural guardian, Jenny C., and M.F., a minor, by and through his parent and natural guardian on behalf of a putative class of similarly situated individuals (collectively “Plaintiffs”). Defendants and Plaintiffs are collectively referred to as the “Parties.”

**A. Recitals**

2. **WHEREAS**, this Agreement addresses and resolves certain disputes arising from and relating to the lawsuit filed in the U.S. District Court for the Southern District of Florida (Civil Action: 18-cv-80810) (“Action”) concerning allegations that: a) the Sheriff’s Office policy and practice of holding juveniles in their custody in solitary confinement (“segregated housing”) for upwards of 23 hours a day violated the Eighth and Fourteenth Amendments’ prohibitions against cruel and unusual punishment and denied these juveniles procedural due process prior to and during the deprivation of their liberty interests; and b) the Sheriff’s Office and the School Board in concert denied these juveniles procedural due process by depriving them of their property interest in education, and failed to provide free and appropriate public education and mandated process, as well as equal access to education, programs, services and activities in violation of the Individuals with Disabilities Act (“IDEA”), the Americans with Disabilities Act (“ADA”), and Section 504 of the Rehabilitation Act (“Section 504”).

3. **WHEREAS**, subsequent to Plaintiffs filing of the Class-Action Complaint for Injunctive and Declaratory Relief on June 21, 2018, along with a Motion for Preliminary Injunction, and briefing regarding the same, and filing of the Amended Class-Action Complaint for Injunctive and Declaratory Relief on August 2, 2018, the Parties engaged in expedited discovery into the claims and issues at bar.

4. **WHEREAS**, by agreement of the Parties, the Court continued the hearing on the merits of Plaintiffs’ Motion for Injunctive Relief in order to permit the Parties to engage in settlement negotiations;

5. **WHEREAS**, the Parties thereafter conducted extensive settlement negotiations to resolve the class injunctive claims in the lawsuit, with the assistance of Plaintiffs’ experts in

prison operations as well as juvenile mental health, in order to achieve a comprehensive resolution of all class claims for injunctive relief raised in the Amended Complaint;

6. **WHEREAS**, the Parties stipulate to certification of a Settlement Class as follows: a) a class of all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office; b) a subclass of all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Individuals with Disabilities Education Act, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office and are in need of special education evaluation, instruction, accommodations, and related services ("IDEA subclass"); and c) all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office ("ADA and 504 Subclass"). The Parties will jointly move for preliminary approval of the class-action settlement, conditional certification of the settlement class, and appointment of Plaintiffs' Counsel as class counsel.

7. **WHEREAS**, the Parties acknowledge that neither this Agreement nor any consideration exchanged hereunder shall be regarded as an admission of any fact, allegation, liability, or responsibility of any kind by either of the Parties for any purpose. This Agreement shall not be admissible in any proceeding, except as is necessary in a proceeding to enforce the terms of this Agreement or to establish or prove the defenses of payment, release, accord and satisfaction, waiver, or estoppel, or as otherwise required by Court order. However, in order to avoid the expense, delay, uncertainty, and burden of litigation, the Parties have agreed to a

settlement of the class injunctive terms alleged in the Amended Complaint filed in this action.

This written Agreement memorializes the terms of the settlement reached by the Parties;

8. **WHEREAS** the Parties represent and agree that this Agreement is fair, reasonable and adequate to protect the interests of all parties and the class;

9. **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between the Parties, as follows:

### **Definitions**

*Cell-side educational services and programming*: The facilitation of educational services and programming to juveniles while they are housed inside a segregated housing cell.

*Co-defendants or keep separates*: Any juvenile in the custody of the Sheriff's Office who has a co-defendant or other juvenile housed within the same facility with whom they cannot have direct contact with because of pending criminal charges or disciplinary separation.

*Educational services and programming*: Implementation of appropriate educational instruction, interventions, accommodations, testing, and evaluations, as well as additional activities to promote learning beyond the traditional academic curriculum, provided to juveniles in the custody of the Sheriff's Office.

*Individual Education Plan (IEP)*: A written statement of an educational program of goals, services, instruction, and accommodations, specific to a juvenile's needs, that is developed, reviewed, and revised for a juvenile identified as having a disability under the Individuals with Disabilities Education Act.

*Jail school*: The educational system administered by the School Board within any of the correctional facilities operated by the Sheriff's Office.

*Juvenile*: Any individual under the age of 18 with pending adult charges and in the custody of the Sheriff's Office.

*Mental health professional*: Qualified mental health professionals who meet the educational and licensure/certification criteria specified by their respective professional disciplines, such as psychiatric nursing, psychiatry, psychology, and social work as defined in Palm Beach County Sheriff's Office Corrections Operating Procedure #914.01 (§IV(G)) **See Exhibit 1 - COP #914.01: Basic Medical Programs.**

*Regular school day*: A regular school day shall be 8:00am to 2:45pm Monday through Friday.

*Segregation Review Committee (SRC)*: A group of Sheriff's Office representatives from

classification, security, and a representative from the health care provider as well as a School Board designee that meets weekly to discuss all prisoners who are held in segregated housing while in the custody of the Sheriff's Office. As part of this Agreement, the parties agree to hold a weekly juvenile SRC meeting in conjunction with the general meeting.

*School Based Team (SBT)*: A problem-solving team comprised of a group of multidisciplinary professionals, who meet regularly to develop action plans for struggling students and work to remove academic, behavioral, and social-emotional barriers to students' learning.

*School Based Team Meeting*: Gatherings of the SBT regarding individual students to use a formal problem-solving process, analyze student referral and baseline data, identify student strengths and areas for improvement, develop intervention plans, including expected outcomes, monitor student progress toward goals, collaborate with community agencies when necessary, and communicate regularly with parents regarding their child's progress.

*Segregated Housing*: Segregated housing shall mean *any* type of confinement of a juvenile in an individual cell separated from the general population for any duration or reason including, but not limited to, those defined within Palm Beach County Sheriff's Office Corrections Operating Procedure #918.00 (§IV(A)). **See Exhibit 2 - COP #918.00: Special Management Units.**

*Substantial breach*: A substantial breach must be either: (i) sufficiently frequent and widespread so as to be pervasive; or (ii) a breach that deviates from a material provision in a way that denies an essential benefit of this Agreement to class members. Minimal or isolated failures, noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute a substantial breach of a material term.

### **Juvenile Segregated Housing Policies**

10. Segregated housing of juveniles by the Sheriff's Office, *shall be limited in time and use as follows*:
  - a. Monday through Friday: Any juvenile classified into segregated housing for any reason other than protective custody shall be allowed out of their cells throughout the regular school day with other juveniles in general population so long as there are no co-defendants or keep-separates in the same housing pod:
    - i. In the event that there are co-defendants or keep separates in the same housing pod, the Sheriff's Office shall implement a rotating schedule that utilizes alternative accommodations within the correctional facility in order to prevent co-defendants or keep separates from having direct contact with each other. A copy of a proposed rotation schedule is attached herewith. **See Exhibit 3 – Rotation Schedule/Alternative Housing Options.**

1. The Sheriff's Office shall evaluate whether any keep separate designations or other restrictions on direct contact with other juveniles can be modified or eliminated during each weekly juvenile Segregation Review Committee ("SRC") meeting pursuant to ¶ 10(e) herein.
2. **Weekends & Holidays:** The Sheriff's Office shall utilize an expanded rotation schedule for co-defendants and keep separates that allows for greater time in programs, recreation or other facility accommodations in order to minimize the duration of time spent in segregated housing as described in **Exhibit 3 – Rotation Schedule/Alternative Housing Options.**
  - a. **Disciplinary referrals:** For any juvenile in segregated housing on weekends and holidays because of a disciplinary referral, the Sheriff's Office shall minimize the amount of time the juvenile will spend in segregated housing by utilizing an expanded rotation schedule and by implementing an alternative behavior management policy as provided in ¶ 10(i)(ii)(1) herein.
  - b. The Parties recognize that all legitimate and reasonable security and safety concerns related to the operation of the jail facilities is of paramount importance.
    - ii. In the event that the number of juveniles in the custody of the Sheriff's Office who have co-defendants or keep separates exceeds the number of available accommodations within the correctional facility such that the Sheriff's Office cannot apply the rotation schedule fairly and equally, the Sheriffs' Office shall notify Plaintiffs' Counsel within 3 business days as provided in ¶ 20(c) herein and provide alternative housing options or strategies within 7 business days thereafter.
      1. The Parties shall be governed by the safe harbor provision described in ¶20(i) herein to resolve the issues prior to filing any enforcement action.
- b. Within 24 hours (excluding weekends and holidays) of any juvenile being placed in segregated housing for *any* reason:
  - i. The Sheriff's Office and the School Board shall confer to determine how best to allow equal access, including any accommodations, to juvenile educational services and programming outside of the segregation cell.
    1. The Sheriff's Office and School Board shall maintain notes and

documentation from these conferences.

- ii. The Sheriff's Office shall refer the juvenile to a mental health professional for evaluation and to determine whether any accommodations are necessary.
- c. The Sheriff's Office shall bring all juveniles out of segregated housing during the regular school day in order for the School Board to facilitate educational services and programming:
- i. There shall be no cell-side facilitation of educational services and programming to juveniles in segregated housing.
    1. The Sheriff's Office shall provide room and/or facility accommodations and staffing in order to assist the School Board in facilitating juvenile educational services and programming outside of segregated housing.
  - ii. In the event that a juvenile refuses to come out of segregated housing for educational services and programming, the Sheriff's Office shall not place the juvenile on "lockdown" or other form of segregated housing for the remainder of the school day.
    1. The Sheriff's Office and the School Board must re-assess the juvenile's willingness to join the educational services and programming prior to each period.
    2. The Sheriff's Office shall provide access to a School Board guidance counselor or other designee to meet with the juvenile regarding the school refusal.
      - a. If the School Board guidance counselor or other designee determines that the juvenile is willing to re-join the period, the Sheriff's Office shall allow the juvenile to do so.
    3. The Sheriff's Office shall within 24 hours refer the juvenile to a mental health professional for evaluation and to determine whether any accommodations are necessary.
- d. The Sheriff's Office shall bring *all* juveniles out of their segregated housing cells in order to facilitate juvenile programming to include, but not limited to, those programs listed in Palm Beach County Sheriff's Office Corrections Operating Procedure #923.00(VIII). **See Exhibit 4 – COP # 923.00: Juvenile Admission, Classification and Housing.**

- i. There shall be no cell-side facilitation of programming to juveniles in segregated housing.
  - ii. The Sheriff's Office shall provide room and/or facility accommodations and staffing in order to facilitate juvenile programming.
- e. The Sheriff's Office shall attend the weekly juvenile SRC meeting.
- i. The weekly juvenile SRC meetings shall be attended by at least one Sheriff's Office staff member from security, classification, programs, medical and mental health
  - ii. At the weekly juvenile SRC meetings, the Sheriff's Office shall:
    1. Discuss classifications of any juveniles in segregated housing and evaluate alternative housing options to include, but not limited to, elimination or modification of any keep separate designations;
    2. Discuss any disciplinary referrals or decisions to classify juveniles in segregated housing and whether alternative disciplinary sanctions can be used to include, but not limited to, those addressed in the proposed alternative behavior management policy pursuant to ¶10(i)(ii)(1) herein;
    3. Discuss any barriers to providing services, accommodations, and evaluations to juveniles, to include the School Board using evidence-based positive behavioral interventions approved and address any issues concerning disruption safety, security and good order, and possible accommodations;
    4. Discuss any concerns the School Board has regarding the delivery of educational instruction or programming to juveniles;
    5. Discuss any juveniles refusing to participate in school;
    6. Discuss any juveniles exhibiting medical and mental health concerns and evaluate alternatives to segregated housing; and
    7. Review any grievances regarding conditions of confinement or educational services filed by juveniles.
  - iii. The Sheriff's Office members participating in the weekly juvenile SRC meetings shall maintain notes including copies of any documents

reviewed during these meetings (*i.e.* grievances, disciplinary referrals, etc.).

- f. Sheriff's Office shall allow *all* juveniles, regardless of classification, to have recreation 7 days a week
- g. Sheriff's Office shall allow *all* juveniles, regardless of classification, to have showers 7 days a week
- h. Sheriff's Office shall not unreasonably withhold phone or visitation privileges from any juvenile.
- i. By January 10, 2019, the Sheriff's Office shall draft a new and/or modified handbook and policies specific to juveniles held in its custody to include, but not limited to those listed herein, and within the Palm Beach County Sheriff's Office Corrections Operating Procedure #918.00 (§V), **See Exhibit 2 - COP #918.00: Special Management Unit:**
  - i. Intake, Housing, classification, and admission;
  - ii. Discipline;
    - 1. By January 10, 2019, the Sheriff's Office shall provide the Parties' Counsel with a proposed alternative behavior management policy regarding disciplinary issues in lieu of, or in the alternative to, 23 hour a day segregated housing, that takes into consideration, among other issues, any medical or mental health concerns of the juvenile.
  - iii. Medical and mental health;
  - iv. Educational services and programming;
  - v. Grievance procedure; and
  - vi. Staff Training

**Juvenile Educational Instruction and Programming Policies**

- 11. The School Board shall provide appropriate educational services and programming to juveniles in the custody of the Sheriff's Office.
  - a. The School Board shall provide all educational services and programming to juveniles outside of their cells, except to those juveniles who refuse to attend school, as described in and pursuant to ¶11(c), below.
  - b. The School Board shall provide sufficient staff to provide educational services and programming to all juveniles, including those in segregated housing and other locations within the Sheriff's Office facilities.

- c. The School Board shall include procedures for juveniles who refuse to attend educational services and programming in its training and materials, as follows:
  - i. If a juvenile refuses to attend school, then School Board shall immediately contact a guidance counselor or other School Board designee to visit with the juvenile regarding the refusal to attend educational services and programming.
    - 1. Such visits shall be documented to include the reasons given for the refusal and any accommodations discussed or considered.
  - ii. The School Board shall address a juvenile's refusal through School Based Team (SBT)/Individual Education Plan (IEP) meetings to plan appropriate interventions using evidence-based positive behavioral interventions approved by the Sheriff's Office.
  - iii. The School Board shall discuss any refusals of educational services and programming by juveniles at the weekly juvenile SRC meetings.
- 12. The School Board shall hold a SBT meeting or IEP meeting for any juvenile entering the custody of the Sheriffs' Office within two weeks of such entry.
  - a. The School Board shall subsequently hold a quarterly SBT or IEP meeting for each juvenile held in custody by the Sheriff's Office.
  - b. The School Board shall maintain written records for each of these meetings.
  - c. The School Board shall submit proposed attendees for IEP meetings, including parent/guardian and School Board employees, to the Sheriff's Office for approval, at least 10 days prior to meeting date.
  - d. The Sheriff's Office shall provide meeting space to accommodate IEP meeting participants.
- 13. The School Board shall have an Exceptional Student Education compliance specialist conduct site visits at the Jail school at least once per quarter to audit students' Individual Education Plans.
- 14. All School Board staff employed within the existing Jail school operated by the Sheriff's Office shall be required to attend an initial School Board training session regarding the terms of this Agreement, as well as any Sheriff's Office policies and procedures that would affect the facilitation of educational services and programming to juveniles.
  - a. The School Board shall develop written training materials by January 10,

2019.

- i. The School Board shall include attendance policies in the training and materials, including the requirement that if a juvenile is held in segregated housing during educational services and programming, that juvenile will be marked absent.
    - ii. The School Board shall provide training to existing Jail school staff regarding the Agreement by January 10, 2019.
  - b. The School Board's Jail school administrator shall provide new staff orientations within 7 days of commencing a position within any correctional facility operated by the Sheriff's Office.
15. The School Board shall provide necessary instructional materials to juveniles in the custody of the Sheriff's Office upon receipt of approval for safety and security.
  - a. Within 30 days of the date of this Agreement, the School Board shall provide a reading specialist to the existing Jail school to assess for required reading interventions for juveniles in the custody of the Sheriff's Office.
    - i. Within 60 days from this site visit by the reading specialist, the School Board will provide a list of any necessary educational materials for reading interventions to the Sheriff's Office for safety and security approval.
  - b. The School Board and Sheriff's Office shall cooperate to enable safe use of computers at the existing Jail school for educational services and programming.
  - c. The School Board shall provide the Sheriff's Office with at least 10 days' notice of any new or supplemental educational materials to be used for educational services and programming for juveniles at the Jail school.
    - i. In the event that any materials are disallowed because of verifiable security risks, the School Board shall locate alternative materials and resubmit the list to the Sheriff's Office for safety and security approval.
16. The School Board's Jail school administrator or designee shall attend the weekly juvenile SRC meetings.
  - a. At the weekly juvenile SRC meetings, the School Board shall:
    - i. Discuss any barriers to providing services, accommodations, interventions, evaluations to juveniles;

- ii. Discuss any concerns the school district has regarding the delivery of educational services and programming to juveniles;
  - iii. Discuss any juveniles refusing to participate in school; and
  - iv. Review any grievances regarding educational services and programming filed by juveniles.
- b. The School Board and Sheriff's Office shall maintain notes of juvenile SRC meetings, including documents reviewed.
17. The School Board shall provide quarterly district oversight to ensure Jail school compliance with English Language Learner (ELL) policies and procedures through site visits, student record reviews, and provision of training.
18. The School Board shall provide a written communication to parents/legal guardians of juveniles in the custody of the Sheriff's Office regarding availability of access to academic information through the Student Information System (SIS) and methods to communicate with Jail school administrators and teachers.

### **Term**

19. No party shall move to terminate the Agreement for a period of five (5) years.

### **Monitoring**

20. Except as otherwise provided herein, Plaintiffs' Counsel in cooperation with designated experts shall oversee implementation and compliance with the injunctive terms of this Agreement for a period of two (2) years as follows:

a. First Year of Monitoring (January 2019 – December 2019):

i. *Designation of Experts:*

1. Plaintiff's Counsel, in its discretion, shall utilize the assistance of a Corrections Expert and an Education Expert for purposes of monitoring compliance.

- a. Said experts shall advise and consult with Plaintiffs' Counsel as to whether the Sheriffs' Office or the School Board are in substantial breach of any material term of this Agreement.

- i. In the event that any substantial breach is identified, Plaintiffs' Counsel shall within 24 hours notify Defendants' Counsel of the

substantial breach. The Sheriffs' Office or the School Board shall have 30 days thereafter to provide notice to all parties that it has corrected or will correct any issues concerning the same, including a description of the steps it has or will take to ensure it is no longer in substantial breach (*nothing herein shall prevent the parties from negotiating in good faith a resolution to any claimed substantial breach informally*);

- ii. If the Sheriff's Office or the School Board does not correct and/or provide a plan to correct any provisions found to be in substantial breach, then Plaintiffs may file a motion with the Court seeking specific enforcement of the terms of this Agreement, reinstatement of the claims for prospective relief in the lawsuit, or an extension of the duration of this Agreement by up to one additional year, including monitoring activities. It shall be Plaintiffs' burden in making such a motion to demonstrate that Defendants are in substantial breach of a material term of the Agreement.
  - iii. In the event that any non-substantial breach is identified, Plaintiffs' Counsel shall within 24 hours notify Defendants' Counsel of the non-substantial breach and negotiate in good-faith to resolve the matter to ensure compliance with the Agreement.
2. Plaintiffs' Counsel shall provide notice and contact information of any expert designation at least 60 days prior to any quarterly on-site visit as stated herein;
- a. Defendants' shall have 5 days from said notice to object to the expert designation. Any objection must be based upon genuine and verifiable concerns as to the expert's qualifications and/or impartiality.
  - b. Upon such an objection, the Parties' shall within 5 days thereafter negotiate in good-faith to resolve any disputes as to the expert designation or, if needed, utilize private mediation services.
  - c. Should the expert designation dispute continue to

remain unresolved, then the objecting party may seek leave from the District Court pursuant to its authority and retention of jurisdiction, for relief.

- d. If no objection is received, then the designated expert shall be deemed acceptable by the Parties.

ii. *Quarterly On-Site Visits:*

1. The Sheriff's Office shall provide Plaintiffs' experts and/or Plaintiffs' Counsel access to any Sheriff's Office facility housing juveniles on a quarterly basis beginning in January 2019 as follows:
  - a. Plaintiffs' experts and/or Plaintiffs' Counsel shall provide at least 14 days prior notice to Counsel for Sheriff's Office and School Board before conducting any on-site visit;
2. Plaintiffs' experts and/or Plaintiffs' Counsel shall have full and complete access to any Sheriff's Office facility that houses juveniles, the medical and mental health units, as well as any room or other accommodation used for educational services and programming, recreation, or the facilitation of any other juvenile programs or services;
3. Plaintiffs' experts and/or Plaintiffs' Counsel shall have full and complete access to any Sheriff's Office or School Board staff member who has or has had any interaction with juveniles;
4. Plaintiffs' experts and/or Plaintiffs' Counsel shall have full and complete access to any juvenile who, at the time of the monitoring activities, is or has been held in segregated housing.

iii. *Document Production*

1. Sheriff's Office:
  - a. On or before the fifteenth day in January, April, July and October of each year beginning January 2019, and prior to any quarterly on-site visit, the Sheriff's Office shall provide to Plaintiffs' Counsel the following documents, records and other information regarding any juvenile who during the quarterly period was or is being held in segregated housing:

- i. Medical and mental health screening and evaluation records (any documents produced shall be covered by the HIPAA Protective Order entered in this Action);
- ii. Bunk rosters and/or daily population sheets;
- iii. Logs, notes, and documents (*i.e.* grievances, disciplinary reports, confinement orders or notations, etc.) reviewed during weekly juvenile segregation review committee meetings;
- iv. Training documents for Sheriff's Office employees working with juveniles;
- v. Handbooks or policies concerning juveniles;

2. School Board:

- a. On or before the fifteenth day in January, April, July and October of each year beginning January 2019, and prior to any quarterly on-site visit, the School Board shall provide to Plaintiffs' Counsel the following documents, records and other information regarding any juvenile who during the quarterly period was or is being held in segregated housing:
  - i. Log of dates of school-based team and individual education plan meetings for each student with a unique number, as well as interventions utilized and revised;
  - ii. Logs of weekly juvenile segregation review committee meetings;
  - iii. Dates of site visits from Exceptional Student Education specialist;
  - iv. Any updates to written training material and new employee orientation training logs;
  - v. English Language Learner oversight logs, including dates of records review and site visits;
  - vi. List of any educational materials that were denied by the Sheriff's Office as provided in ¶

15, and any alternative educational materials considered or used;

- vii. The number of juvenile students referred for initial Exceptional Student Education evaluations and any re-evaluations, and the number of completed evaluations and re-evaluations;
- viii. Numbers and dates of refusals for educational services and programming; and
- ix. Information regarding absences due to segregated housing, though the School Board does not make a representation that this information is accurate.

b. Second Year of Monitoring (January 2020 to December 2020)

- i. The Sheriff's Office shall allow access to on-site visits to Plaintiffs' Counsel, if necessary, as provided in ¶20(a)(ii) herein on a bi-annual basis.
  - ii. The Sheriff's Office and School Board shall produce documents to Plaintiffs' Counsel as provided in ¶20(a)(iii) herein on a bi-annual basis.
  - iii. Any substantial breach of a material term of the Agreement shall continue to be governed by the safe harbor provision described in ¶20(a)(i) herein prior to enforcement.
- c. Notices. All documents, information, or notices described herein shall be provided to each of Plaintiffs' Counsel in electronic form via e-mail and/or electronic file at:

**Theodore Jon Leopold, Esq.**  
**Diana Leigh Martin, Esq.**  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard  
Suite 200  
Palm Beach Gardens, FL 33410  
561-515-1400  
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Legal Aid Society of Palm Beach County  
423 Fern Street  
Suite 200  
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d. Monitoring Fees and Costs. Plaintiffs' Counsel shall invoice the Sheriff's Office and the School Board for monitoring fees and costs separately as follows:

i. *First Year of Monitoring (January 2019 – December 2019):*

1. Sheriff's Office:

a. On a quarterly basis beginning January 2019, Plaintiffs' Counsel shall invoice the Sheriff's Office for monitoring activities to include fees and costs for Plaintiffs' designated expert not to exceed \$4,500.00 per quarter.

i. The Sheriff's Office and School Board shall pay Plaintiffs' Counsel invoice within 30 days of receipt.

ii. Notwithstanding the foregoing, Plaintiffs' Counsel shall at any time during the term of this Agreement have the right to seek, by motion to the District Court, an award of monitoring fees and costs in excess of \$4,500.00 per quarter if circumstances, actions or events require Plaintiffs' designated expert and/or Plaintiffs' Counsel to significantly increase monitoring time and efforts due to any failure by the Sheriff's Office to maintain substantial compliance with the Agreement.

- iii. Prior to filing any such motion, Plaintiffs' Counsel shall notify counsel for Defendants via email and first-class regular U.S. Mail of their intent to file a motion seeking additional fees. Within ten (10) business days of this notice, the Parties shall meet and confer in good faith to resolve the dispute. The time by which the Parties may meet and confer shall not exceed thirty (30) days of the date of the notice. Plaintiffs are entitled to seek from the District Court reasonable attorneys' fees and costs in connection with such a motion.

2. School Board:

- a. On a quarterly basis beginning January 2019, Plaintiffs' Counsel shall invoice the School Board for monitoring activities to include fees and costs for Plaintiffs' designated expert not to exceed \$3,000.00 per quarter.
  - i. The School Board shall pay Plaintiffs' Counsel invoice within 30 days of receipt.
  - ii. Notwithstanding the foregoing, Plaintiffs' Counsel shall at any time during the term of this Agreement have the right to seek, by motion to the District Court, an award of monitoring fees and costs in excess of \$3,000.00 per quarter if circumstances, actions or events require Plaintiff's designated expert and/or Plaintiffs' counsel to significantly increase monitoring time and efforts due to any failure by the School Board to maintain substantial compliance with the Agreement.
  - iii. Prior to filing any such motion, Plaintiffs' counsel shall notify counsel for Defendants via email and first-class regular U.S. Mail of their intent to file a motion seeking additional fees. Within ten (10) business days of this notice, the Parties shall meet and confer in good faith to resolve the dispute. The time by which the Parties may meet and confer shall not exceed thirty (30) days of the date of the notice. Plaintiffs are entitled to seek from the District

Court reasonable attorneys' fees and costs in connection with such a motion.

ii. Second Year of Monitoring (January 2020 – December 2020):

1. On a bi-annual basis beginning January 2020, Plaintiffs' Counsel shall invoice the Sheriff's Office and School Board for monitoring activities to include fees and costs for Plaintiffs' Expert as follows:
  - a. Sheriff's Office bi-annual invoice shall not exceed \$2,500.00.
  - b. School Board's bi-annual invoice shall not exceed \$1,000.00.
2. The Sheriff's Office and School Board shall pay Plaintiffs' Counsel invoices within 30 days of receipt.
  - a. Notwithstanding the foregoing, Plaintiffs' Counsel shall at any time during the term of this Agreement have the right to seek, by motion to the District Court, an award of monitoring fees and costs in excess of the bi-annual amounts stated above, if circumstances, actions or events require Plaintiffs' Counsel to significantly increase monitoring time and efforts due to any failure by the Sheriff's Office or the School Board to maintain substantial compliance with the Agreement.
  - b. Prior to filing any such motion, Plaintiffs' Counsel shall notify counsel for Defendants via email and first-class regular U.S. Mail of their intent to file a motion seeking additional fees. Within ten (10) business days of this notice, the Parties shall meet and confer in good faith to resolve the dispute. The time by which the Parties may meet and confer shall not exceed thirty (30) days of the date of the notice. Plaintiffs are entitled to seek from the District Court reasonable attorneys' fees and costs in connection with such a motion.

**Compliance with 18 U.S.C. § 3626(a)(1)**

21. The parties stipulate, based upon the entire record, that the relief provided in this Agreement is narrowly drawn and extends no further than necessary to correct violations of federal rights, and is the least intrusive means necessary to correct violations of federal rights.

### **Retention of Jurisdiction and Consent to Magistrate**

22. The District Court shall retain jurisdiction over the subject matter of this Agreement and the Parties for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or interpretation of this Agreement or to effectuate or enforce compliance with its terms, including any award of attorneys' fees and costs. All parties consent to the exercise of such jurisdiction and to submit the Agreement to the District Court for approval and retention of jurisdiction.
23. The Parties further agree and consent to the U.S. Magistrate Judge for the Southern District of Florida, for purposes of retention of jurisdiction and enforcement of the Agreement as provided herein.

### **Dismissal of Action**

24. Upon final approval of the Agreement by the District Court, class certification, and appointment of class counsel, the Parties shall file a Joint Motion for Dismissal and Order of Dismissal. In filing the Joint Motion and Order of Dismissal, it is the intention of the Parties that the District Court retain jurisdiction over the Agreement pursuant to ¶¶ 22-23 *supra*.

### **Attorneys' Fees and Costs**

25. The Parties shall engage in good-faith negotiations over reasonable attorneys' fees and costs for Plaintiffs' counsel and agree to retention of jurisdiction by the District Court regarding the same pursuant to ¶¶ 22-23 *supra*.

### **Release**

26. Except as otherwise provided in this Agreement and as separate consideration for the agreements contained herein, Named Plaintiffs, the Plaintiff Class and Sub-Classes hereby absolutely, fully and forever release, relieve, waive, relinquish, and discharge Defendants and their successors, predecessors, related entities, departments, subsidiaries, representatives, assigns, agents, partners, officers, directors, managers, insurers, shareholders, and employees ("Released Parties"), of, and from, any and all known claims for equitable, declaratory relief, or compensatory education, subject to the following limitations: (i) this waiver shall not apply to claims based on acts or omissions arising after the date of execution of this Agreement; (ii) this waiver shall be limited to the allegations made in the Amended Complaint (which do not include claims for monetary damages); this waiver shall not apply to any claim for attorneys' fees and costs associated with this Action, enforcement and/or compliance with the Agreement.

27. Named Plaintiffs and the Plaintiff Class and Sub-Classes acknowledge their intention that, upon execution by the Parties and approval by the Court, this Agreement, except as expressly provided for herein, shall be effective as a full and final accord and satisfaction and settlement of and as a bar to all of the claims in the Action.

### **Stipulation as to Class Certification**

28. The parties agree that this matter is appropriate for certification as a class action pursuant to Fed. R. Civ. P. 23(b)(2). The class is defined as: a) a class of all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office; b) a subclass of all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Individuals with Disabilities Education Act, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office and are in need of special education evaluation, instruction, accommodations, and related services ("IDEA subclass"); and c) all present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office ("ADA and 504 Subclass"). The Parties agree that the class is so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class, the claims of the named plaintiffs are typical of the claims of the class, and the plaintiffs and their counsel will fairly and adequately protect the interests of the class. The Parties agree that the segregated housing policies that are the subject of this action apply generally to the class, making relief appropriate for the class as a whole. Defendants agree that they shall not move to decertify the class for the duration of this Agreement and shall not unreasonably oppose the designation by Plaintiffs of new class representatives if necessary.

### **Class Action Fairness Act ("CAFA")**

29. Within 10 days of the date that this Agreement is filed in the District Court for Preliminary Approval, the Sheriff's Office and the School Board will provide the Notice of this Settlement Agreement as required by the CAFA (28 U.S.C. § 1715(b)) to the U.S. Attorney General, the Florida Attorney General's Office, and/or any other necessary parties.

### **Fairness Hearing**

30. The Parties shall jointly request that the District Court schedule and conduct a Fairness Hearing to address the fairness of this Agreement settling Plaintiffs' claims against Defendants and to decide whether there shall be Final Approval of the settlement embodied in this Agreement. At the Fairness Hearing, the Parties shall jointly move for and recommend certification of the Class and Final Approval of

this Agreement. The Fairness Hearing shall take place on a date in accordance with 28 U.S.C. § 1715.

### **Miscellaneous Provisions**

31. Construction of Agreement and Counsel. Should any of the provisions or terms of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing this Agreement shall not apply a presumption that such provision(s) or term(s) shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared it, it being agreed that all Parties and their respective counsel have participated in the preparation and review of this Agreement. Further, the Parties specifically acknowledge and agree that each has retained separate, independent counsel to represent them.
32. Binding Effect. This Agreement is binding upon Plaintiffs, the Class and Subclasses, the Defendants named in this lawsuit in their official capacities, and on Defendants' successors in office, employees and agents for the duration of the term of this Agreement.
33. Authority. By signing this Agreement, the Parties represent and warrant that each person signing this Agreement on behalf of them has the authority to execute this Agreement and to bind Defendants, the Sheriff's Office and School Board, and Plaintiffs respectively.
34. Exhibits. The terms of all Exhibits attached hereto are fully incorporated into this Agreement and are an integral part thereof. The terms of this Agreement, where applicable, are fully incorporated into all Exhibits and are, where applicable, an integral part thereof. To the extent that there are any conflicts or inconsistencies between the terms of this Agreement and any of the Exhibits, the terms of this Agreement shall control.
35. Completeness of Document. This Agreement contains the entire understanding between the parties with respect to the matters set forth herein, and there are no representations, warranties, agreements, arrangements, or undertakings, oral or written, between or among the parties hereto relating to the subject matter of the Agreement which are not fully expressed herein.
36. Modification of Agreement. Any modification of or addition to this Agreement must be in writing, signed by Defendants and Plaintiffs' Class Counsel.
37. Counterparts. This Agreement may be executed in separate counterparts, which, taken together, shall comprise one agreement.
38. Facsimile/Electronic Signatures. A facsimile or electronic representation of a signature shall be deemed as effective as an original signature.

**EXECUTED AS OF THE DATE INDICATED BELOW:**

Date: October 22, 2018

Henry Cardoza  
Plaintiff H.C. and Proposed Class Representative

*Reviewed and approved by:*

Date: October 22, 2018

Jenny C.  
Jenny C., Parent and Legal Guardian

Date: October 23, 2018

Margaret  
Plaintiff M.F. and Proposed Class Representative

Date: October 23, 2018

D. Martin  
Diana L. Martin, Esq., Class Counsel  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Ste. 200  
Palm Beach Gardens, FL 33410

Date: October 23, 2018

Sabarish P. Neelakanta  
Sabarish P. Neelakanta, Esq., Class Counsel  
Human Rights Defense Center  
P.O. Box 1151  
Lake Worth, FL 33460

Date: October 23, 2018

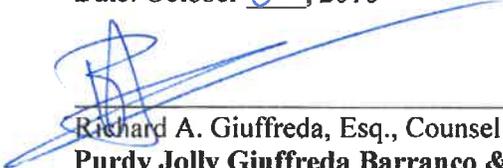
Melissa M. Duncan  
Melissa M. Duncan, Esq., Class Counsel  
Legal Aid Society of Palm Beach County, Education Advocacy Project  
423 Fern St., Ste. 200  
West Palm Beach, FL 33401

**EXECUTED AS OF THE DATE INDICATED BELOW:**

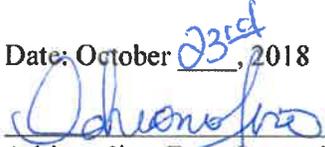
Date: October 22nd, 2018

  
\_\_\_\_\_  
Ric Bradshaw,  
On behalf of the Palm Beach County Sheriffs' Office in his official capacity as Sheriff of Palm  
Beach County, Florida

Date: October 23rd, 2018

  
\_\_\_\_\_  
Richard A. Giuffreda, Esq., Counsel for Defendant Sheriff's Office  
**Purdy Jolly Giuffreda Barranco & Jisa, PA**  
2455 E Sunrise Boulevard  
Suite 1216  
Fort Lauderdale, FL 33304  
954-462-3200  
Fax: 462-3861  
Email: richard@purdylaw.com

Date: October 23rd, 2018

  
\_\_\_\_\_  
Adriana Jisa, Esq., Counsel for Defendant Sheriff's Office  
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2455 E Sunrise Boulevard  
Suite 1216  
Fort Lauderdale, FL 33304  
954-462-3200  
Fax: 462-3861  
Email: adriana@purdylaw.com

**EXECUTED AS OF THE DATE INDICATED BELOW:**

Date: P qxgo dgt \_\_\_\_, 2018

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Chuck Shaw, Chairman,  
On behalf of the School Board of Palm Beach County, Florida

Date: P qxgo dgt \_\_\_\_, 2018

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Jon Erik Bell, Esq., Counsel for the Defendant, School Board of Palm Beach County  
**School District of Palm Beach County**  
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West Palm Beach, FL 33406  
(561) 434-8500  
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Email: jon.bell@palmbeachschools.org

Date: P qxgo dgt \_\_\_\_, 2018

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Laura Esterman Pincus, Counsel for the Defendant, School Board of Palm Beach County  
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West Palm Beach, FL 33406  
561-434-8748  
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Date: P qxgo dgt \_\_\_\_, 2018

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Lisa Carmona, Esq., Counsel for the Defendant, School Board of Palm Beach County  
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