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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CORRI DITTIMUS BEY, MELVIN	:	
CLARK, MARK ELLIOTT and DONALD	:	
RUDD, on behalf of themselves and all	:	CLASS ACTION COMPLAINT
others similarly situated,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 05cv0063
	:	
v.	:	
	:	JURY TRIAL DEMANDED
CAMDEN COUNTY CORRECTIONAL	:	
FACILITY, CAMDEN COUNTY	:	
DEPARTMENT OF CORRECTIONS,	:	
CAMDEN COUNTY, WARDEN ERIC	:	
TAYLOR, DEPUTY WARDEN FRANK	:	
LOBERTO, and JOSEPH RIPA.	:	
	:	
Defendants.	:	

AMENDED COMPLAINT

PRELIMINARY STATEMENT

1. Plaintiffs Corri Dittimus Bey, Melvin Clark, Mark Elliott and Donald Rudd ("Plaintiffs"), all current or former inmates of the State of New Jersey at Camden County Correctional Facility, bring this 42 U.S.C. § 1983 action on behalf of themselves and all other similarly situated individuals, against Defendants Warden Eric Taylor, Deputy Warden Frank Loberto, Camden County Freeholder Liaison Joseph Ripa, Camden County Correctional Facility,

Camden County Department of Corrections and Camden County, for injuries resulting from serious violations of Plaintiffs' right to safe and healthy prison conditions under the Due Process Clause of the Fourteenth Amendment and the Eighth Amendment to the United States Constitution. The following allegations are based on the investigation of counsel, as well as personal knowledge as to Plaintiffs' own acts and are made on information and belief as to the acts of others.

JURISDICTION AND VENUE

2. This court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331.
3. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

4. Upon information and belief Plaintiffs have fulfilled the requirements of the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), requiring inmates to exhaust available administrative remedies prior to filing suit under 42 U.S.C. § 1983 alleging violations of their constitutional right to safe and healthy prison conditions.

PARTIES

5. Plaintiff Corri Dittimus Bey ("Dittimus Bey") is currently incarcerated at Adams County Detention Center located in Brighton, Colorado. Dittimus Bey was an inmate at the Camden County Correctional Facility on three separate occasions, most recently in 2005.

6. Plaintiff Melvin Clark ("Clark") is a citizen of the State of New Jersey and is currently incarcerated at the Camden County Correctional Facility in Camden, New Jersey. Clark has been an inmate at the Camden County Correctional Facility since January 2004.

7. Plaintiff Mark Elliott ("Elliott") is a citizen of the State of New Jersey and is currently incarcerated at the Camden County Correctional Facility in Camden, New Jersey.

Elliott has been an inmate at Camden County Correctional Facility since January 2006.

8. Plaintiff Donald Rudd (“Rudd”) is a citizen of the State of New Jersey and is currently incarcerated at Camden County Correctional Facility in Camden, New Jersey. Rudd has been an inmate at the Camden County Correctional Facility since May 2004.

9. Defendant Camden County (“County”) has its principal place of business and county seat in Camden, New Jersey. The County is a body politic and corporate, organized and existing under the laws of the State of New Jersey. The County provides prison services through the Camden County Correctional Facility (“CCCF”) and oversees CCCF operations through the Camden County Department of Corrections (“Department of Corrections”). Under applicable federal and state law, the County is liable for the conduct of its governmental subdivisions, including, inter alia, the CCCF and the Department of Corrections.

10. Defendant Eric Taylor (“Taylor”) is an individual residing in or around Camden County, New Jersey. During the time period relevant to this lawsuit, Taylor served as Warden of Camden County Correctional Facility and head of the Camden County Department of Corrections and, in fact, actually exercised such functions and performed such duties.

11. Defendant Frank Loberto (“Loberto”) is an individual residing in or around Camden County, New Jersey. During the time period relevant to this lawsuit, Loberto served as Deputy Warden of Camden County Correctional Facility and, in fact, actually exercised such functions and performed such duties.

12. Defendant Joseph Ripa (“Ripa”) is a Camden County Freeholder and resident of Camden County, New Jersey. During the time period relevant to this lawsuit, Ripa served as the county freeholder liaison to the Camden County Department of Corrections and, in fact, actually exercised such functions and performed such duties.

FACTUAL ALLEGATIONS

The Defendants' Custom, Policy, and Practice of Deliberate Indifference to Inmate Safety and Health Conditions

13. CCCF is located in the city of Camden and was first occupied by inmates in February 1988.

14. CCCF was initially built to house 499 single bed cells, but by 1993 was double bunking cells, allowing the inmate population to reach 900.

15. In order to address the growing population at CCCF, prefabricated brick housing units were constructed which increased the facility's capacity to 1,267 beds. However, this alteration has done little to amend the extreme overcrowded environment that currently exists at CCCF. The number of inmates incarcerated at CCCF has continued to grow in the subsequent years, reaching a previously unseen high of 1,823 inmates in March of 2004. This has led to triple and quadruple bunking cells in sections of CCCF. The result is an extremely overpopulated facility that is exceptionally understaffed creating an unsafe, unhealthy, and unsanitary environment for the inmates incarcerated at CCCF.

16. The policy, practice, and custom of inadequately housing inmates and understaffing CCCF was implemented and/or knowingly tolerated by high-ranking County and CCCF officials.

17. During the relevant time period, County and CCCF officials were aware that the CCCF was severely overcrowded and understaffed.

18. In or about March 2004, the National Institute of Corrections issued a report titled "Local System Assessment (LSA) for Camden County NJ Correctional Facility," ("NIC Report") which took note of the "extreme" crowding at the CCCF, stating that the "[c]urrent population levels exceed the rated capacity by 140%." (NIC Report at 7).

19. The NIC Report also noted that the CCCF did not employ sufficient staff to support the overcrowded population that resided at the facility. (NIC Report at 9) (“Overall staffing appears short for the amount of work that is needed.”). The NIC Report took special note of the understaffing in the kitchen and other ancillary services, stating that they “have simply been overwhelmed by the sheer number of inmates.” (*Id.*) “For instance, the kitchen was designed to produce meals for 499 inmates. In a standard year that equates to 546,405 meals . . . This year at current levels 1900 meals will be produced each meal for a yearly total of 2,086,200 meals. The kitchen was never designed to produce this number of meals.” (*Id.*) This quadrupling of meals, the report concluded, “has completely overwhelmed the production capability of [CCCF’s] kitchen.” (*Id.* at 14).

20. The NIC Report also found that “[t]he crowding of this jail facility may be the single most important issue facing Camden County” and CCCF “as a whole is suffering from the effects of the crowding.” (NIC Report at 14) (emphasis added). Thus, the report concluded:

[Camden County] is a relatively affluent county that can afford to invest money to save money and alleviate jail crowding. There are informed jail administrators capable of resolving problems. There is a sophisticated justice system comprised of the court, the prosecutor and the public defense. There is a knowledgeable county government and finally, Camden County is a caring community.

(*Id.* at 30).

21. Despite these independent findings, many of the conditions observed by the NIC persist today and have resulted, in part, to the numerous violations of Plaintiffs’ rights under the Due Process Clause of the Fourteenth Amendment and the Eighth Amendment to the United States Constitution.

22. Despite the findings of the NIC Report, the County continues to implement and

tolerate a custom, policy, and practice of failing to adequately house inmates of CCCF, as well as provide sufficient staff to support the overgrown population incarcerated at the facility.

23. In addition to the NIC Report, the County also commissioned a report titled “Individuals with Mental Illness in the Camden County Criminal Justice System: An Analysis of the Implications of a Tragedy and Recommendations for Cross Systems Improvements” (“Mental Illness Report”). While the report specifically addressed circumstances surrounding the beating death of Joel Seidel while he was incarcerated at CCCF in January 2004, it also noted that CCCF “was severely overcrowded and inmate population exceeded the rated capacity of 1,267 inmates by approximately 500 (39%) on any given day.” (Mental Illness Report at 7) (emphasis added).

24. The above-described customs, policies and practices create a substantial and unreasonable risk that inmates within CCCF will either be injured during their incarceration or forced to endure unsafe and unsanitary conditions.

25. During all relevant times, County and Prison officials knew of the excessive risk to inmate safety within CCCF, and, furthermore, the excessive risk to inmate safety was so obvious that it was commonly known both within and outside County government. Indeed, following the murder of Joel Seidel, countless newspaper articles and numerous independent studies articulated the overcrowded environment.

26. During the relevant time period, County and CCCF officials, acting with deliberate indifference to the dangerous conditions within CCCF, knowingly disregarded the excessive risks to inmate safety within CCCF. During the relevant time-period, these County and CCCF officials failed to take reasonable steps to reduce the inmate population at CCCF in order to remedy the dangerous environment. Acting with deliberate indifference to the

dangerous conditions within CCCF, County and CCCF officials continued to ignore obvious unsanitary, unhealthy and unsafe conditions within CCCF, and continued to profoundly understaff the facility.

Facts Directly Pertaining to Plaintiffs

27. As a direct result of the severe overcrowding and understaffing noted supra, Plaintiffs have been forced to live in an environment that is unhealthy, unsafe, and unsanitary.

28. The environment at CCCF has resulted in a number of violations of Plaintiffs' right to safe and healthy prison conditions under the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment.

29. Examples of the unhealthy, unsafe, and unsanitary environment that has resulted from the overcrowded and understaffed conditions at CCCF, include, inter alia:

Inadequate Sleeping Arrangements:

- (a) Due to severe overcrowding, cells designed for one or two inmates routinely and regularly sleep three to four inmates at a time.
- (b) This arrangement forces one or two of the inmates in a cell to sleep on extremely thin mattresses, on the floor near the cell's toilet.
- (c) Plaintiffs Dittimus Bey, Clark, Elliott, and Rudd have each been forced share a cell with two or three other inmates, for lengthy periods of time, during their incarceration at CCCF and have all been forced to sleep on the floor next to the toilet.
- (d) Inmates in protective custody cells, such as Plaintiffs Clark, Elliott, and Rudd are locked in their cell for up to 24 hours at a time with up to as many as three other cellmates and are not provided with adequate

recreation time.

Inadequate Plumbing System:

- (a) Disruption in CCCF's plumbing system frequently results in clogged and overflowing toilets that spill over onto the floor space where inmates are forced to sleep due to an insufficient number of bunks.
- (b) When toilets overflow, inmates, including Plaintiffs Clark, Elliott and Rudd, are not given adequate cleaning supplies to clean the floor, often being provided with no more than a damp mop without bleach or other disinfectant.
- (c) During one week in January 2005, there was no running water in the individual cells or showers forcing Plaintiffs Rudd and Clark to defecate in plastic trash bags at the instruction of CCCF personnel.
- (d) On another occasion, Rudd was unable to get cold water in his cell for months at a time.
- (e) In addition, the water provided in the individual cells of Plaintiffs Clark, Elliott and Rudd for drinking and cleaning is often a brownish color.

Inadequate Cleaning Materials:

- (a) Inmates are often not provided proper cleaning materials for individual cells and common areas such as showers.
- (b) Sometimes inmates, such as Plaintiffs Rudd, are forced to clean their cell with water that has already been used to clean 12 other cells.
- (c) Other times inmates such as Plaintiff Clark were not given a broom or scrub brush to clean their cells with and were forced to use their hands or

their personal shower towel.

- (d) In addition, inmates such as Plaintiff Clark and Rudd have been instructed by CCCF personnel to simply paint over mold, mildew and dirt rather than clean it first.
- (e) This, and other, unsanitary conditions has resulted in severe boil and scabies outbreaks among inmates.
- (f) Inmates with contagious diseases, including but not limited to boils, scabies and tuberculosis, are housed in the general population thereby promoting the spread of highly contagious diseases.

Inadequate Medical Staff:

- (a) Due to an insufficient medical staff, inmates are often forced to wait days even weeks before receiving treatment for illnesses and injuries.
- (b) Examples include Plaintiff Elliott who was hurt following a fall from the top bunk of his cell, seriously injuring his hip. Despite numerous requests, Elliott was forced to endure the pain from his injuries for approximately 10 days before he was allowed to see the prison doctor. And, after the doctor instructed that Elliott be moved from the top tier and top bunk to prevent further injury, Elliott was transferred to protective custody which is located on the top tier of CCCF requiring him to negotiate stairs, with an injured hip, on a daily basis. Elliott is also now forced to sleep on the floor on a thin mattress pad, with his head near the toilet, causing further aggravation and injury to his hip.
- (c) On another occasion, Plaintiff Elliott was not seen by a doctor for a full

month concerning a severe and irritating skin rash, despite repeated written and oral requests. After finally being seen by a doctor, Elliott was diagnosed with scabies, a highly contagious skin condition.

- (d) Plaintiff Rudd had an existing back condition when he arrived at CCCF, but despite numerous requests to be examined, he was not seen by CCCF medical staff for approximately one month.
- (e) On another occasion Plaintiff Rudd injured his hand, yet it took a week before any of his requests to see CCCF medical personnel were acknowledged and an additional 4 days before an X-ray of his hand was actually taken.
- (f) Plaintiff Rudd also suffers from asthma, requiring the regular use of an inhaler. It routinely takes days before Rudd is provided with an inhaler, despite repeated requests.

Inadequate Dental Staff:

- (a) Inmates are also deprived of sufficient dental care and are only given the option of extraction to alleviate any dental pain they are enduring.
- (b) Plaintiff Rudd was forced to wait for days before he could have a tooth pulled by a member of the dental staff, even though a nerve was exposed in his mouth resulting in severe pain. The tooth was eventually pulled despite Mr. Rudd's request to have the filling re-done;

Unsanitary Meal Service:

- (a) Meal trays are distributed in a manner in which dirt, hair and other objects from the floor often end up on inmate trays and in their food.

- (b) Meal trays and plastic cups used for beverages often have dried food from previous meals and dirt marks on them.
- (c) In addition, many of the meal trays used are cracked, allowing for pockets of spoiled dishwasher water to collect inside of the trays creating a disgusting stench.
- (d) CCCF also suffers from an ongoing, severe fruit fly infestation. Fruit fly nests can be found, among many other places, in or around the hot water tanks that are used to provide inmates with hot water for their soups and drinks.

Understaffed Maintenance Crew:

- (a) The maintenance staff can often take a number of days to respond to urgent repairs such as clogged toilets, including the toilet of Plaintiff Clark.

Inadequate Toiletry Supplies:

- (a) All cells, including those cells housing three and four inmates at a time, are forced to share only a single roll of toilet paper a week.
- (b) At times inmates, including Plaintiffs Rudd and Clark, have been forced to use their personal showering towel instead of toilet paper once their allotted weekly roll runs out.

Inadequate Laundry Service:

- (a) Inmates are only given the opportunity to have personal items (e.g. socks, boxer shorts, t-shirts, etc) laundered once a week and often items are stolen.

- (b) Plaintiffs Clark, Elliott and Rudd have all gone without personal laundry service for weeks at time during different periods of their incarceration at CCCF.
- (c) As a result, inmates, including Plaintiffs Clark and Rudd have been forced to wash their clothes in the small cell sink using only their bath soap in lieu of laundry detergent.
- (d) Plaintiff Elliott has been forced to wash clothes in his toilet.
- (e) Plaintiff Clark has also had numerous personal laundry items stolen while supposedly being cleaned, and other inmates have had clothes come back from laundry with holes.

30. The conditions described above are just a few examples of the ways in which the severe overcrowding and understaffing of CCCF has created an unsafe, unsanitary and unhealthy environment. Plaintiffs have suffered injuries as a result of these violations of their rights under the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment.

31. Plaintiffs Dittimus Bey, Clark, Elliott and Rudd have submitted Inmate Grievance Forms ("Forms") concerning all the above-mentioned conditions. Frequently, however, the Forms are never returned to the inmates for their signature, as required by the inmate handbook. Moreover, inmates, including the Plaintiffs, are not provided with requisite information or documentation to allow them to follow-up on an already filed grievance, or to appeal a grievance determination. Instead, inmates are forced to submit multiple Forms, concerning the same grievance, day after day. These grievance forms are deposited in bins that are often not emptied or reviewed for months at a time.

32. As a result of the conduct and events described herein, Plaintiff Dittimus Bey has

suffered serious emotional and physical injuries, and has suffered real and measurable monetary damages.

33. As a result of the conduct and events described herein, Plaintiff Clark has suffered serious emotional injuries, and has suffered real and measurable monetary damages.

34. As a result of the conduct and events described herein, Plaintiff Elliott has suffered serious emotional and physical injuries, and has suffered real and measurable monetary damages.

35. As a result of the conduct and events described herein, Plaintiff Rudd has suffered serious emotional and physical injuries, and has suffered real and measurable monetary damages.

CLASS ALLEGATIONS

36. Upon completion of discovery with respect to the scope of the Class and the Class Period, Plaintiffs reserve the right to amend the definition of the Class and/or the Class Period.

37. Plaintiffs bring their claims under the Due Process Clause of the Fourteenth Amendment and Eighth Amendment to the Constitution pursuant to Federal Rule of Civil Procedure 23 as a class action on behalf of the following class (the "Class"):

All pre-trial detainees awaiting trial and convicted prisoners who are now, or who during the pendency of this suit would become, incarcerated in the Camden County Correctional Facility.

38. The Class, as defined above, is so numerous that joinder of all members is impracticable.

39. There are questions of law and fact that are common to the Class and predominate over any individual questions. Among such common questions of law and fact include, inter alia, the following:

a. Whether the Camden County Correctional Facility is an overcrowded

facility?

- b. Whether the overcrowded conditions at the Camden County Correctional Facility create an unsafe, unsanitary, and unhealthy environment for the inmates incarcerated at the facility?
- c. Whether the conditions alleged, alone or in combination, deprive Plaintiffs of the minimal civilized measure of life's necessities?
- d. Whether the conditions alleged, alone or in combination, result in unquestioned and serious deprivations of basic human needs?
- e. Whether the overcrowded environment at Camden County Correctional Facility lead to the deprivation of essential food, medical care, or sanitation?
- f. Whether the overcrowded environment at Camden County Correctional Facility violates the Plaintiffs' Constitutional right to safe and healthy prison conditions?
- g. Whether the Defendants acted or failed to act with deliberate indifference to a substantial risk of harm to inmate health or safety?
- h. Whether the Defendants actions constitute cruel and unusual punishment?
- i. Whether the Defendants violated the Plaintiffs' Eighth Amendment right to be free from cruel and unusual punishment?
- j. Whether the Defendants violated rights guaranteed to the Plaintiffs' by the Due Process Clause of the Fourteenth Amendment?
- k. Whether Defendants should be enjoined from the continued unconstitutional practices of overcrowding?

1. Whether Plaintiffs and members of the class are entitled to monetary damages?

40. Plaintiffs are members of the Class and their claims are typical of the claims of the members of the Class as defined.

41. Plaintiffs will fairly and adequately represent the Class and the interests of all members of the Class.

42. Plaintiffs possess no interests that are antagonistic to or in the conflict with those interests that they have undertaken to represent the Class as Class representatives.

43. Plaintiffs are represented by competent and experienced class action counsel who are able to effectively represent the interests of the entire Class.

44. Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

45. A class action is superior to other litigation methods (including individual litigation) for the fair and efficient adjudication of Plaintiffs' claims as presented by this Complaint and will prevent the undue financial, administrative, and procedural burdens on the parties and the Court. Because the damages sustained by individual members of the Class are modest and due to the costs of individual litigation, it may be impracticable for Class members to pursue individual litigation against Defendants in order to vindicate their rights. In addition, individual actions would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Defendants with respect to the treatment of inmates of CCCF.

LEGAL CLAIMS

COUNT I

Asserted, Pursuant to 42 U.S.C. § 1983, Against Taylor, Loberto and Ripa For Violating Plaintiffs' Eighth Amendment Right to Safe and Healthy Prison Conditions

46. Plaintiffs repeat and reassert the allegations set forth in the preceding paragraphs as though stated herein.

47. The Eighth Amendment to the United States Constitution requires that state actors take reasonable measures to guarantee the safety and well being of inmates. In other words, when the government takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well being.

48. Taylor, Loberto and Ripa were aware that Plaintiffs and the rest of the Class housed in the CCCF were exposed to an unreasonable risk of injury and disease for all the reasons discussed supra. Notwithstanding the highly publicized overcrowded and understaffed environment at CCCF, Taylor, Loberto and Ripa, acting with deliberate indifference to the known and unreasonable risks to Plaintiffs and the Class, allowed the unhealthy, unsafe and unsanitary environment to persist at the CCCF.

49. As a result of Taylor, Loberto and Ripa's deliberate indifference to the safety of Plaintiffs and the Class, Plaintiffs have suffered numerous violations of their Eighth Amendment rights.

WHEREFORE, Taylor, Loberto and Ripa are liable, pursuant to 42 U.S.C. § 1983, for violating Plaintiffs' Eighth Amendment right to reasonably safe prison conditions.

COUNT II

**Asserted, Pursuant to 42 U.S.C. § 1983, Against Taylor, Loberto and Ripa For
Violating Plaintiffs' Right to Safe and Healthy Prison Conditions under the Due Process
Clause of the Fourteenth Amendment**

50. Plaintiffs repeat and reassert the allegations set forth in the preceding paragraphs as though stated herein.

51. The Due Process Clause of the Fourteenth Amendment to the United States Constitution affords pretrial detainees at least the same level of protection afforded to convicted prisoners under the Eighth Amendment to the United States Constitution. The Eighth Amendment requires that state actors take reasonable measures to guarantee the safety and well being of inmates. In other words, when the government takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being.

52. Taylor, Loberto and Ripa were aware that Plaintiffs and the rest of the Class housed in the CCCF were exposed to an unreasonable risk of injury and disease for all the reasons discussed supra. Notwithstanding the highly publicized overcrowded and understaffed environment at CCCF, Taylor, Loberto and Ripa, acting with deliberate indifference to the known and unreasonable risks to Plaintiffs and the Class, allowed the unhealthy, unsafe and unsanitary environment to persist at the CCCF.

53. As a result of Taylor, Loberto and Ripa's deliberate indifference to the safety of Plaintiffs and the Class, Plaintiffs have suffered numerous violations of their rights under the Due Process Clause of the Fourteenth Amendment.

WHEREFORE, Taylor, Loberto and Ripa are liable, pursuant to 42 U.S.C. § 1983, for violating Plaintiffs' rights under the Due Process Clause of the Fourteenth Amendment to

reasonably safe prison conditions.

COUNT III

Asserted, Pursuant to 42 U.S.C. § 1983, Against the County For Violating Plaintiff's Eighth Amendment Right to Safe and Healthy Prison Conditions

54. Plaintiffs repeat and reassert the allegations set forth in the preceding paragraphs as though stated herein.

55. The Eighth Amendment to the United States Constitution requires that state actors take reasonable measures to guarantee the safety and health of inmates. In other words, when the government takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well being.

56. As discussed supra, the County and corresponding subdivisions, acting with deliberate indifference to Plaintiffs and the Class's Eighth Amendment rights, implemented, maintained, and knowingly tolerated a custom, policy, and practice of maintaining unreasonably dangerous conditions within CCCF by, inter alia, (i) failing to adequately staff the CCCF; (ii) failing to adequately house inmates incarcerated at the CCCF; (iii) ignoring an independent observations made at the behest of the County concerning the unsafe and unhealthy environment that persists at the CCCF.

57. When Taylor, Loberto and Ripa, acting with deliberate indifference to known and unreasonable risks to Plaintiffs' safety, allowed CCCF to be overpopulated and inadequately staffed, they acted consistent with and pursuant to County's above-described municipal customs, policies, and practices.

58. The above-described municipal customs, policies, and practices were the moving force behind the Eighth Amendment violations Plaintiffs and members of the Class have and

continue to suffer, and said violations are a foreseeable result of such municipal customs, policies, and practices.

59. As a result of the County's illegal customs, policies, and practices, Plaintiffs and the Class have suffered numerous violations of their Eighth Amendment rights.

WHEREFORE, the County is liable, pursuant to 42 U.S.C. § 1983, for violating Plaintiffs' Eighth Amendment right to reasonably safe and healthy prison conditions.

COUNT IV

Asserted, Pursuant to 42 U.S.C. § 1983, Against the County For Violating Plaintiffs' Right to Safe and Healthy Prison Conditions under the Due Process Clause of the Fourteenth Amendment

60. Plaintiffs repeat and reassert the allegations set forth in the preceding paragraphs as though stated herein.

61. The Due Process Clause of the Fourteenth Amendment to the United States Constitution affords pretrial detainees at least the same level of protection afforded to convicted prisoners under the Eighth Amendment to the United States Constitution. The Eighth Amendment to the United States Constitution requires that state actors take reasonable measures to guarantee the safety and health of inmates. In other words, when the government takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well being.

62. As discussed supra, the County, acting with deliberate indifference to Plaintiffs and the Class's rights under the Due Process Clause of the Fourteenth Amendment, implemented, maintained, and knowingly tolerated a custom, policy, and practice of maintaining unreasonably dangerous conditions within the CCCF by, inter alia, (i) failing to adequately staff the CCCF; (ii) failing to adequately house inmates incarcerated at the CCCF; (iii) ignoring an

independent observations made at the behest of the County concerning the unsafe and unhealthy environment that persists at CCCF.

63. When Taylor, Loberto and Ripa, acting with deliberate indifference to known and unreasonable risks to Plaintiffs' safety, allowed the CCCF to be overpopulated and inadequately staffed, they acted consistent with and pursuant to County's above-described municipal customs, policies, and practices.

64. The above-described municipal customs, policies, and practices were the moving force behind the Constitutional violations Plaintiffs and members of the Class have and continue to suffer, and said violations are a foreseeable result of such municipal customs, policies, and practices.

65. As a result of the County's illegal customs, policies, and practices, Plaintiffs and the Class have suffered numerous violations of their rights under the Due Process Clause of the Fourteenth Amendment.

WHEREFORE, the County is liable, pursuant to 42 U.S.C. § 1983, for violating Plaintiffs' right to reasonably safe and healthy prison conditions under the Due Process Clause of the Fourteenth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of a class of all those similarly situated, respectfully requests that this Court:

- (a) Enter a declaratory judgment that Defendants' conduct violated Plaintiffs' Fourteenth and Eighth Amendment rights to safe prison conditions;
- (b) Enter a declaratory judgment that the County's custom, policy, and practice of overcrowding and understaffing the CCCF violates inmates Fourteenth and Eighth Amendment

right to safe, sanitary and healthy prison conditions;

(c) Enter an injunction ordering the Defendants to reduce the population at the CCCF to constitutional levels;

(d) Enter an injunction ordering Defendants to hire additional staff at the CCCF;

(e) Enter an injunction ordering Defendants to house inmates afflicted by contagious diseases in an area separate from general population;

(f) Award of monetary damages;

(g) Award Plaintiffs all litigation costs, expenses, and attorney's fees recoverable under federal law; and

(h) Award such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury as to all issues so triable.

Dated: March 31, 2006

Respectfully submitted,

TRUJILLO RODRIGUEZ & RICHARDS, LLC

By: /s Lisa J. Rodriguez
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UNITED STATES DISTRICT COURT
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LOBERTO, and JOSEPH RIPA.	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served a copy of the Amended Complaint on counsel
listed below:

Howard L. Goldberg
Assistant County Counsel
City Hall
520 Market Street
14th Floor Courthouse
Camden, NJ 08102-1375

Dated: March 31, 2006

By: /s Lisa J. Rodriguez
Lisa J. Rodriguez