

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WOMEN PRISONERS OF THE DISTRICT OF	)	
COLUMBIA DEPARTMENT OF CORRECTIONS,	)	
<u>et al.</u> ,	)	
	)	
Plaintiffs,	)	Civil Action
	)	No. 93-2052 JLG
	)	
v.	)	
	)	
DISTRICT OF COLUMBIA,	)	
<u>et al.</u> ,	)	
	)	
Defendants.	)	

PLAINTIFFS' PROPOSED FINDINGS OF FACT

I. GENERAL

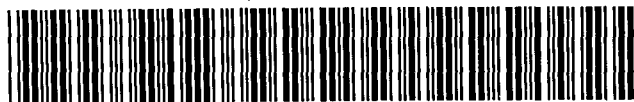
1. The profile of the woman prisoner in D.C. is 97% African-American, 85% unemployed, 82% single parent and primary caretaker, 7% sentenced for violent crimes, and 57% sentenced for drug law violations. The women have histories of substance abuse, past sexual and physical abuse, and suffer from severe emotional problems including depression and dependence. (Pl. Exs. 289, 290, 292, 339, 341, 434, 520; Ryan deposition; Minor Dep. Tr. at 24-27).

II. SEXUAL MISCONDUCT AND SEXUAL HARASSMENT

Physical Sexual Conduct

2. D.C. Department of Corrections (DCDC) employees use physical force and threats of physical force to make women

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prisoners engage in sexual activity. (Pl. Exs. 88, 502, 504, 596; Fiester deposition and testimony; Henderson Dep. Tr. at 149-51; McMurtry Dep. Tr. at 64).

3. DCDC employees coerce women prisoners into engaging in sexual activity through the use of threats, including threats of escape reports and disciplinary reports. (Pl. Ex. 68; Fiester deposition and testimony; Krull Dep. Tr. at 146-49).

4. DCDC employees coerce women prisoners into having sexual contacts in exchange for goods and favors, including cigarettes, money, candy, food, and preferential treatment. (Derr (II) Dep. Tr. at 75; Fiester deposition and testimony; Y. Jackson Dep. Tr. at 57-59, 137-39; Jones Dep. Tr. at 23-32).

5. DCDC employees initiate and/or engage in inappropriate sexual activity with women prisoners. (Pl. Exs. 80, 83, 85, 98, 104, 502, 506, 657; Braxton Dep. Tr. at 58-59; Brummell Dep. Tr. at 14, 21, 85; Derr (II) Dep. Tr. at 78, 81, 88-89; Fiester deposition and testimony; Gilmore Dep. Tr. at 216; Y. Jackson Dep. Tr. at 57-59, 73-74, 118-20, 137-39, 143-45, 147, 150-51; Jones Dep. Tr. at 113, 159-64, 167-79; Krull Dep. Tr. at 233, 263; Perry Dep. Tr. at 166-68; Plaut Dep. Tr. at 162-63; Ray (II) Dep. Tr. at 125-26; Riddick Dep. Tr. at 199; Smith Dep. Tr. at 200-10).

6. Women prisoners are unable to truly consent to physical sexual contact with employees due to the extreme

positions of power employees have over women prisoners, coupled with the fact that women prisoners are completely dependent upon the employees for their care, well-being, and security. (Fiester deposition and testimony; Y. Jackson Dep. Tr. at 81-82; Krull Dep. Tr. at 201; McMurtry Dep. Tr. at 232; Minor Dep. Tr. at 123-24; Perry Dep. Tr. at 175; Roach Dep. Tr. at 102).

7. DCDC employees allow women prisoners to have sexual relations with other residents. (Fiester deposition and testimony; Y. Jackson Dep. Tr. at 67-70; Jones Dep. Tr. at 149-54).

8. DCDC employees touch women prisoners in an inappropriate and unwanted sexual manner. (Pl. Exs. 69, 73, 10, 596; Brummell Dep. Tr. at 85; Fiester deposition and testimony; Gilmore Dep. Tr. at 202; Jones Dep. Tr. at 137, 140-41).

9. DCDC employees expose their bodies to women prisoners. (Pl. Ex. 69; Fiester deposition and testimony).

10. DCDC employees encourage or coerce women prisoners to "flash" for them and to expose their bodies to employees. (Pl. Exs. 84, 88; Fiester deposition and testimony).

11. Defendants are aware that physical sexual contact occurs between DCDC employees and women prisoners. (Pl. Exs. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Braxton Dep. Tr. at 57-60; Brummell Dep. Tr. at 13-104, 68-82;

Fiester deposition and testimony; Henderson Dep. Tr. at 93-94, 127-67; P. Jackson Dep. Tr. at 152-56; Y. Jackson Dep. Tr. at 23-156; Jones Dep. Tr. at 21-47, 110-88; Krull Dep. Tr. at 232-49, 269-70; McMurtry Dep. Tr. at 119-26, 260-65; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 151-52; Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at 199-200, 202-04, 208-16; Roach Dep. Tr. at 108-14; Welch Dep. Tr. at 62-67, 79-82).

12. Defendants fail to adequately address sexual misconduct at the Correctional Treatment Facility (CTF), the Minimum Security Annex (Annex), and the Jail. (Pl. Ex. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Braxton Dep. Tr. at 57-60; Fiester deposition and testimony; Henderson Dep. Tr. at 93-113; P. Jackson Dep. Tr. at 152-56; Y. Jackson Dep. Tr. at 23-156; Jones Dep. Tr. at 21-47, 122-88; Krull Dep. Tr. at 232-49, 269-70; McCathorine Dep. Tr. at 222-23, 225-26; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 165-66, 171-72, 181-82, Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at 199-200, 202-04, 214-15; Roach Dep. Tr. at 111-14; Welch Dep. Tr. at 62-67, 79-82).

13. Although sexual contact between employees and inmates is forbidden, the Defendants' written policy on the Employee Inmate Relationship does not address sexual contact between employees and inmates. (Pl. Ex. 106; Fiester deposition and testimony; Gilmore Dep. Tr. at 197).

Verbal Sexual Comments

14. Women prisoners at CTF, the Annex, and the Jail are subjected to inappropriate verbal sexual comments, advances and propositions by DCDC employees in every aspect of their incarceration. (Pl. Exs. 67, 72, 74-78, 82, 84, 101; Fiester deposition and testimony; Jones Dep. Tr. at 144; Y. Jackson Dep. Tr. at 57; Stempson Dep. Tr. at 170-72).

15. Defendants are aware that women prisoners at CTF, the Annex, and the Jail are subjected to inappropriate verbal sexual comments, advances and propositions by DCDC employees in every aspect of their incarceration. (Pl. Exs. 67, 72, 74-78, 82, 84, 101; Fiester deposition and testimony; Jones Dep. Tr. at 144; Y. Jackson Dep. Tr. at 57; Stempson Dep. Tr. at 168-72).

16. Women prisoners at the Annex are subjected to inappropriate verbal sexual comments, advances and propositions by male inmates when the women walk from the Annex to the Minimum security compound for daily meals. (Fiester deposition and testimony; Gilmore Dep. Tr. at 205-06; Y. Jackson Dep. Tr. at 157-58).

17. Male correctional officers at the Minimum compound encourage the behavior of the male inmates by laughing and making no effort to stop the harassment of women prisoners. (Fiester deposition and testimony).

18. Women prisoners at the Annex are subjected to inappropriate verbal sexual comments, advances and

propositions by male inmates and DCDC employees in Industries at the Central Facility. (Derr (II) Dep. Tr. at 88-90; Fiester deposition and testimony; Gibbons Dep. Tr. at 92-111; Stempson Dep. Tr. at 133).

19. Defendants' employees witness and are aware that women prisoners are subjected to inappropriate verbal sexual comments, advances and propositions by male inmates at Minimum. (Fiester deposition and testimony; Y. Jackson Dep. Tr. at 157-58; Gilmore Dep. Tr. at 205-06).

20. Defendants' policy prohibiting sexual harassment does not apply to sexual harassment of inmates. (Pl. Ex. 107).

Invasion of Privacy

21. Defendants fail to prevent the invasion of women residents' privacy. (Fiester deposition and testimony).

22. Male employees frequently enter the women's living areas without announcing their presence in contravention of Defendants' internal policy. (Fiester deposition and testimony; Y. Jackson Dep. Tr. at 32-33, 44).

23. Male employees frequently view the female residents without clothing as a result of their failure to announce their presence in the women's living areas. (Pl. Ex. 330; Fiester deposition and testimony).

24. Male residents are able to view the interior of women's housing areas at CTF from the recreation yard and from

their cells. (Pl. Ex. 330; Fiester deposition and testimony; Riddick Dep. Tr. at 218-19).

Environment

25. Sexual misconduct, sexual harassment and invasions of privacy create a hostile, sexualized environment at CTF, Minimum, and the Jail. (Fiester deposition and testimony; Lancaster deposition and testimony; Minor Dep. Tr. at 15-22, 94-124, 126-29; Ray (II) Dep. Tr. at 111-12; 132-34).

26. DCDC employees allow women on housing units to be inappropriately attired, in contravention of their internal policy, in the presence of male employees, which contributes to a hostile, sexualized environment. (Pl. Exs. 326, 330, 357; Fiester deposition and testimony; Hawkins Dep. Tr. at 151-52; Krull Dep. Tr. at 199; Lancaster deposition and testimony).

Effect on Women

27. Defendants are aware that incarcerated women as a population generally have low self esteem and a high incidence of depression, and that many women prisoners have experienced rape, sexual assault, or sexual abuse prior to being incarcerated. (Fiester deposition and testimony; Lancaster deposition and testimony; McMurtry Dep. Tr. at 137-41; Ryan Dep. Tr. at 407-08).

28. The sexualized environment and sexual contact between DCDC employees and women prisoners exacerbates the

women's existing low self esteem and depression. (Fiester deposition and testimony; Ryan Dep. Tr. at 407-08).

29. Women prisoners with histories of rape, sexual abuse, or sexual assault who are subjected to sexual comments, advances, or contacts experience increased depression, guilt, self-blame, anger, and hostility. Additionally, the process of resolving problems related to prior abuse is severely damaged. (Fiester deposition and testimony).

30. Women prisoners who are not directly subjected to sexual comments or physical contact who observe this behavior may experience psychological distress, including feelings of helplessness and frustration, and may have recurrences of memories of past abuse. (Fiester deposition and testimony).

31. Coerced sexual contact in exchange for goods and preferential treatment encourages and reinforces pathological behavior in women prisoners, including reinforcing the idea that women can use their bodies as commodities and that their value is primarily as sexual objects. (Fiester deposition and testimony).

32. Sexual assault or rape can cause women prisoners to experience severe depressive and anxiety disorders, significant physical symptoms, and symptoms of Post-Traumatic Stress Disorder. (Fiester deposition and testimony).

33. Women residents experience embarrassment and stress due to the unnecessary invasion of privacy. (Fiester deposition and testimony).

Reporting Sexual Misconduct and Sexual Harassment

34. Instructions for filing an Inmate Grievance Procedure are not uniformly posted which restricts women prisoners' access to this procedure for reporting incidents of sexual harassment or sexual misconduct. (Fiester deposition and testimony; Krull Dep. Tr. at 230).

35. The existing Inmate Grievance Procedure does not adequately address women's concerns for confidentiality. (Fiester deposition and testimony; Perry Dep. Tr. at 164-65; Plaut Dep. Tr. at 148-49; Riddick Dep. Tr. at 210; Smith Dep. Tr. at 218).

36. Defendants' employees are not uniformly aware of the procedure for reporting incidents of sexual misconduct within the institution. (Fiester deposition and testimony; Elzie Dep. Tr. at 77; Ali Dep. Tr. at 140; Y. Jackson Dep. Tr. at 158-59).

37. Employees' are not uniformly aware of procedures for reporting allegations of sexual misconduct to law enforcement agencies. (Henderson Dep. Tr. at 115, 146; McCatharine Dep. Tr. at 243).

38. Sexual misconduct involving force or threats of force are not routinely reported to law enforcement agencies.

(Pl. Exs. 73, 87, 90, 91, 154, 502; Fiester deposition and testimony; Henderson Dep. Tr. at 161).

39. On the occasion that an incident of sexual misconduct involving force or threats of force is reported to law enforcement agencies, the facility often fails to communicate with the law enforcement agency to ascertain the outcome of the investigation. (Fiester deposition and testimony; Henderson Dep. Tr. at 95, 146, 151, 156-57).

40. Employees receive allegations of sexual misconduct and sexual harassment from women and fail to report the allegations. (Fiester deposition and testimony; P. Jackson Dep. Tr. 152-56; Y. Jackson Dep. Tr. at 72; McMurtry Dep. Tr. at 240; Perry Dep. Tr. at 161; Welch Dep. Tr. at 62-67, 72).

Investigating Sexual Misconduct and Sexual Harassment

41. Defendants fail to adequately investigate reports of sexual misconduct and sexual harassment. (Pl. Exs. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Braxton Dep. Tr. at 57-60; Derr (II) Dep. Tr. at 105-06; Fiester deposition and testimony; Hawkins Dep. Tr. at 176-80; Henderson Dep. Tr. at 93-113, 115; P. Jackson Dep. Tr. at 81-82, 152-56; Y. Jackson Dep. Tr. at 23-156, 161; Jones Dep. Tr. at 21-47, 122-88; Krull Dep. Tr. at 227-28, 232-49, 269-70; Lancaster deposition and testimony; McCathorine Dep. Tr. at 222-23, 225-26; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 165-66, 171-72, 181-82, Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at

199-200, 202-04, 214-15; Roach Dep. Tr. at 111-14; Welch Dep. Tr. at 62-67, 79-82).

42. No uniform investigatory procedures exist for investigating allegations of sexual misconduct or sexual harassment. (Fiester deposition and testimony; Henderson Dep. Tr. at 85; Krull Dep. Tr. at 227; Lancaster deposition and testimony).

43. There are excessive delays in the investigation and timely resolution of prisoners' claims of sexual misconduct and sexual harassment. (Fiester deposition and testimony).

44. Defendants fail to take appropriate action during the course of an investigation of sexual harassment or sexual misconduct. (Pl. Exs. 72, 80, 67, 82, 86, 502, 504, 596; Elzie (sealed) Dep. Tr. at 16; Fiester deposition and testimony).

45. Defendants routinely fail to investigate, or conduct deficient investigations of, allegations of sexual harassment or sexual misconduct. (Pl. Exs. 68, 80, 84, 85, 91, 98; Brummell Dep. Tr. at 91; Derr (II) Dep. Tr. at 68-71, 75-76; Elzie (sealed) Dep. Tr. at 13-14; Fiester deposition and testimony; Hawkins Dep. Tr. at 176-80; Henderson Dep. Tr. at 164-66; Y. Jackson Dep. Tr. at 67-74, 119-20, 137-39, 143, 148; Jones Dep. Tr. at 31-32, 159-60, 163-64, 167-79; Krull Dep. Tr. at 233, 244-49, 263-68; Plaut Dep. Tr. at 153-58, 182; Riddick Dep. Tr. at 213; Smith Dep. Tr. at 200).

46. Defendants routinely determine that sexual misconduct or sexual harassment has not occurred when the evidence consists of an inmate's word against an employee's word. (Pl. Exs. 67, 74-78, 82, 86; Fiester deposition and testimony).

47. Defendants routinely fail to make a finding of whether sexual misconduct or sexual harassment occurred. (Pl. Exs. 67, 82, 86, 88, 98, 502, 504, 596; Brummell Dep. Tr. at 95-97; Fiester deposition and testimony; Jones Dep. Tr. at 178-79; Lancaster deposition and testimony; Plaut Dep. Tr. at 166; Smith Dep. Tr. at 200; Stempson Dep. Tr. at 169-72).

48. Defendants fail to discipline employees for sexual misconduct or sexual harassment. (Pl. Exs. 83, 101, 104, 502; Brummell Dep. Tr. at 68; Fiester deposition and testimony; Henderson Dep. Tr. at 132; Lancaster deposition and testimony; Roach Dep. Tr. at 112; Plaut Dep. Tr. at 162, 189).

49. Defendants do not conduct an internal investigation when an allegation of sexual misconduct is referred to a law enforcement agency. (Elzie (sealed) Dep. Tr. at 9; Henderson Dep. Tr. at 149, 156-57).

50. Defendants' recent policy regarding the use of outside investigators for allegations of sexual harassment applies only to sexual harassment of employees. (Pl. Ex. 433; Gilmore Dep. Tr. at 212-14; Jones Dep. Tr. at 125).

51. The inaction of the Defendants in investigating allegations of sexual misconduct or sexual harassment

increases the women's reluctance to report sexual misconduct or sexual harassment. (Fiester deposition and testimony).

Training

52. Defendants fail to adequately train their employees regarding sexual harassment and sexual misconduct between employees and inmates. (Pl. Ex. 356; Fiester deposition and testimony; Lancaster deposition and testimony; Stempson Dep. Tr. at 182-83; Welch Dep. Tr. at 76).

53. Defendants' two hour training component on sexual harassment pertains only to the sexual harassment of employees. (Pl. Exs. 115, 116).

III. MEDICAL CARE

Gynecological Care

54. Defendants have failed to provide adequate gynecological care precluding prevention, early identification, treatment, and monitoring of gynecological conditions. (Major deposition and testimony).

55. Defendants' failure to provide adequate gynecological and obstetrical care has caused women prisoners unnecessary physical and psychological stress and pain. (Major deposition and testimony).

56. By not providing adequate gynecological care, Defendants have also significantly increased the risk that women prisoners will suffer harm in the future. (Major deposition and testimony).

--Examination and Testing

57. Defendants are aware that women prisoners at CTF are in a high risk category for gynecological diseases such as syphilis, gonorrhea, chlamydia, breast, uterine, and cervical cancer, and for developing complications during pregnancy. A study conducted by Defendants revealed that approximately ten percent of all women prisoners are HIV positive. (Pl. Exs. 297, 660, 667; W. Hall Dep. Tr. at 46, 51; McMurtry Dep. Tr. at 152-55; Welch Dep. Tr. at 44-46; Jane Doe III Dep. Tr. at 27-29).

58. Contrary to Defendants' own written policies and correctional health care standards, testing for sexually-transmitted diseases often does not take place within the prescribed period of time or a reasonable time thereafter. (Pl. Exs. 561, 563, 643, Major deposition and testimony).

59. Defendants do not perform required routine gynecological examinations on all women within prescribed periods of time. (Pl. Ex. 254; Jane Doe II Dep. Tr. at 61-126; Major deposition and testimony).

60. Minimally acceptable standards of care require Defendants to provide women prisoners with AIDS or who are HIV positive with more frequent gynecological examination, which Defendants have failed to do. (Major testimony).

--Treatment and Follow-Up

61. Defendants have repeatedly failed to provide adequate treatment and follow-up of gynecological conditions

even though it is Defendants' policy "to provide clinically appropriate periodic health examinations and follow-up care to inmates." (Pl. Exs. 254, 483; Hawkins Dep. Tr. at 64-65; Jane Doe II Dep. Tr. at 61-126; Jane Doe PP Dep. Tr. at 12-14).

62. As a result of Defendants' failure to provide treatment and follow-up gynecological care, Defendants have caused women prisoners to experience unnecessary pain and stress, and have increased the women prisoners' risk of developing further complications related to their medical conditions. (Major deposition and testimony).

--Health Education

63. Defendants do not provide adequate health education to women prisoners incarcerated at CTF as required by Defendants' written policies and correctional health care standards. (Pl. Exs. 570, 643, 645; W. Hall Dep. Tr. at 181-182; Welch Dep. Tr. at 31-32).

64. Health education is particularly important for women incarcerated at CTF because they are at high risk of contracting and/or transmitting sexually-transmitted diseases and developing other gynecological conditions. (Pl. Ex. 667; Ali Dep. Tr. at 89; Major testimony).

65. Health education is also important because women prisoners are sexually active while incarcerated at CTF. (Pl. Ex. 1, 557; Ali Dep. Tr. at 124-25; P. Jackson Dep. Tr. at 85-86; McCathorine Dep. Tr. at 268-71; Ray (I) Dep. Tr. at 92-98; Taylor Dep. Tr. at 121-22, 153-58).

66. Failure to provide adequate health education puts the women at CTF at increased risk of developing serious gynecological problems. (Major deposition and testimony).

--Abortion Counseling

67. Defendants' written policy provides that non-directive counseling shall be provided to all incarcerated women who are contemplating seeking an abortion. (Pl. Ex. 5).

68. Defendants have violated their own policy and have failed to provide adequate abortion counseling to pregnant women. (Pl. Exs. 434, 658, 659).

69. Indicative of Defendants' failure to ensure that women receive non-directive counseling is Defendants' decision, approved by then Director Ridley, to allow only representatives of the "Sanctity of Life Ministry" "to assist [Defendants] in providing quality program opportunities for the pregnant inmates in our facilities," believing that that organization would have a "major impact" and "would provide quality programming for this population." (Pl. Exs. 658, 659; Krull Dep. Tr. at 159-61).

70. Defendants have failed to provide adequate counseling in at least three instances where women indicated they wanted, and ultimately obtained, an abortion. (Welch Dep. Tr. at 61-62; Major testimony).

71. In at least one instance, one woman prisoner at CTF indicated that she wanted an abortion, yet she never obtained one. She never received any counseling concerning

the options available to her. She is now approximately nine months pregnant. (Major testimony).

Prenatal Care

72. Defendants have a written policy requiring them to provide comprehensive medical care and counseling to all pregnant women prisoners. (Pl. Exs. 2, 339).

73. Defendants have violated their own policy by failing to provide pregnant women prisoners with adequate prenatal care. Indeed, even Defendants recognize that there is a "lack of gender specific care in the areas of pre-natal and postnatal education and care." (Pl. Exs. 434, 601; Major-deposition and testimony).

74. Defendants are aware that the failure to provide adequate prenatal care and counseling to pregnant women prisoners at CTF increases the risk of infant deformity and mortality; increases the health risks associated with pregnancy for women; precludes bonding between mother and child; and puts newborn children at greater risk of being placed in inappropriate child care arrangements. (Pl. Exs. 295, 297, 298, 606, 651; McCatharine Dep. Tr. at 271-75).

75. Defendants' failure to provide adequate prenatal care and counseling also causes a pregnant woman prisoner at CTF to endure stress unnecessarily because of fear that she and her fetus are not receiving proper care. Such stress is in addition to the general anxiety suffered by women who are pregnant while incarcerated. As the former Chief of

Mental Health Services at DCDC has stated: "To experience pregnancy in the harsh environment of incarceration must be considered a most cruel punishment." (Pl. Ex. 297; McCathorine Dep. Tr. at 271-75; McMurtry Dep. Tr. at 301-02).

--Commencement of Prenatal Care

76. Defendants do not commence prenatal care immediately after they have reason to know that a woman prisoner is pregnant. Indeed, some pregnant women have resided at CTF for two months before receiving any prenatal care and in some instances, women prisoners have received virtually no prenatal care. (Jane Doe A Dep. Tr. at 35-39; Jane Doe L Dep. Tr. at 25-33; Major deposition and testimony).

77. Defendants have also failed to provide pregnant women prisoners with regularly scheduled prenatal check-ups. Jane Doe S4, for example, had to sign up for sick call to attempt to receive prenatal care, stating on the sick call list for April 12, 1993: "I need prenatal care bad." (Pl. Ex. 254; Jane Doe A Dep. Tr. at 35-39; Jane Doe L Dep. Tr. at 25-33; Major deposition and testimony).

--Lack of Prenatal Protocol

78. One of the most glaring defects in the prenatal care provided to women at CTF is the lack of a written prenatal protocol, which would outline in detail the medical care that pregnant women should receive and the specified

times during which they should receive that care. (Pl. Ex. 642; Major deposition and testimony).

79. CTF also does not utilize risk assessment forms, such as PROPRAS forms, which are critical in minimizing maternal and neonatal morbidity and mortality. (Pl. Exs. 642, 667).

80. Dr. Charles Hall, the CTF ob/gyn physician, prepared "prenatal guidelines" at the request of Dr. Eliza Taylor. The "Guidelines for Care of Pregnant Inmates at CTF," are a one-page, seven-sentenced document, prepared subsequent to the filing of Plaintiffs' lawsuit and subsequent to the initial site visit of CTF by Plaintiffs' medical expert. (Pl. Ex. 457; C. Hall Dep. Tr. at 121-24).

81. These "guidelines" do not constitute an adequate prenatal protocol. (Pl. Ex. 642; Major deposition and testimony).

--Transportation

82. Transportation to and from D.C. General Hospital is an integral part of the provision of medical care to women prisoners at CTF because most pregnant women prisoners incarcerated at CTF receive their primary prenatal care at D.C. General Hospital. (C. Hall Dep. Tr. at 111; Jones Dep. Tr. at 63).

83. Defendants have failed to provide an adequate transportation system for ensuring that women are able to keep

their prenatal appointments at D.C. General Hospital. (Pl. Exs. 59, 389; Major deposition and testimony).

84. Correctional officers are often not available to transport women to DCGH for OB/GYN appointments. Even when transportation is available, it is often so late that an appointment has to be cancelled or a woman is forced to refuse an appointment after arriving at DCGH because she has had to wait too long after arrival before being seen by medical personnel. (Pl. Exs. 59, 389; Ali Dep. Tr. at 103-104; Jane Doe QQQ testimony).

85. As a result of Defendants' failure to transport women to medical facilities outside CTF in a timely manner, some women have not been able to receive prenatal medical visits at appropriate intervals. In some instances, there is considerable delay before a woman is seen at a rescheduled appointment. (Pl. Ex. 389).

86. In April 1994, Jane Doe QQQ had an appointment at DCGH to be tested for gestational diabetes. Because of the nature of the test, she was told not to eat that morning before the test was taken. At the time, Jane Doe QQQ was approximately eight months pregnant and there was a history of diabetes in her family. Her appointment was scheduled for 7:30 am but because she did not arrive at DCGH until approximately 8:30 am she had to wait in a main waiting area, with restraints on, for almost three hours. She eventually refused to receive the test at DCGH because she had been

waiting almost three hours to take the test and although eight months pregnant, had not eaten any food since the night before. (Jane Doe QQQ testimony).

87. Rescheduling an appointment does not necessarily alleviate the harm caused by the initial missed appointment because there are a variety of standard tests that all pregnant women should receive within a prescribed period of time in order to be effective tools for evaluating the medical condition of the pregnant woman and the fetus. (Pl. Ex. 642; Major deposition and testimony).

88. Defendants are aware that providing escorts to D.C. General Hospital is a problem. (Pl. Ex. 59; Jane Doe III Dep. Tr. at 84-85).

89. Defendants have even maintained statistics in some of the Chief Medical Officer's monthly reports to Dr. William Hall comparing the number of appointments scheduled at DCGH with the number of prisoners actually seen by DCGH personnel. (Pl. Ex. 394).

90. In addition to delaying and denying access to care by using an inadequate transportation system, Defendants also have no written policy regarding the use of restraints on pregnant women. Incredibly, leg shackles and handcuffs have been used on pregnant women while they were in labor. (Ali Dep. Tr. at 162-163; Jone Dep. Tr. at 14-17; Jane Doe L Dep. Tr. at 33-41).

91. Use of such restraints during pregnancy, particularly during the later part of pregnancy, delivery, and within six weeks of labor, is inhumane and medically inappropriate. (Major testimony).

--Nutrition

92. Defendants have also failed to meet the nutritional needs of pregnant women prisoners.

93. Defendants' Health Services Division Operating Procedure for pregnant women prisoners specifically provides that "[a]ny dietary recommendations made by D.C. General Hospital shall be followed." (Pl. Ex. 2; McMurtry Dep. Tr. at 170).

94. Yet, D.C. General Hospital physician orders regarding nutritional supplements for pregnant women at CTF have not been followed by CTF medical personnel. (Jane Doe QQQ testimony).

95. All pregnant women prisoners have not received prenatal vitamins and iron tablets in a timely manner. (Major deposition and testimony).

96. All pregnant women have not received an adequate amount of food, and the food they receive has often been cold or not cooked thoroughly. (Riddick Dep. Tr. at 228-30; Jane Doe QQQ testimony).

97. Women in the pregnancy housing unit do not have access to boiling water in the evening, preventing them from

supplementing their diets with hot foods in the evening.
(Jane Doe QQQ testimony).

--Exercise

98. Women prisoners also do not have access to regularly scheduled prenatal exercise classes and opportunities to receive fresh air. Defendants have offered virtually no prenatal exercises classes since the opening of CTF in May 1992. (Jane Doe QQQ testimony; Major testimony).

--Prenatal Education

99. Defendants have failed to inform all pregnant women of the existence of the prenatal education classes that are available, on the occasions where such classes have been offered. (Jane Doe QQQ testimony; Major deposition and testimony).

100. In addition, staff at CTF have failed to provide pregnant women prisoners with adequate educational material regarding all aspects of proper prenatal care. (Pl. Ex. 434; Major deposition and testimony).

--Child Placement Counseling

101. Defendants are aware of the necessity of providing adequate child placement counseling to pregnant women prisoners, particularly in light of the fact that "the greatest number of abandoned infants in the area hospitals belong to the women who are incarcerated within [Defendants'] institutions." (Pl. Exs. 44, 45, 46, 47, 434, 601, 605;

Gilmore Dep. Tr. at 79-80; McMurtry Dep. Tr. at 304-06; Minor Dep. Tr. at 26, 32-33).

102. Once Defendants become aware that a woman prisoner is pregnant, it is in the best interest of the woman, her unborn child, and Defendants to begin counseling the woman as soon as possible regarding the variety of child care arrangements available to her. Indeed, Defendants' written policy provides that counseling regarding child placement shall take place as soon as the pregnancy is known. (Pl. Ex. 8).

103. Similarly, ACA standard 3-4387 states: "[w]ritten policy, procedure, and practice require that comprehensive counseling and assistance are provided to pregnant inmates in keeping with their expressed desires in planning for their unborn children." (Pl. Ex. 643).

104. Nevertheless, Defendants, in violation of their own policy and in contradiction of recognized correctional health care standards, have failed to provide pregnant women prisoners with adequate counseling regarding child care arrangements. In some instances, Defendants have failed to provide any counseling regarding child care arrangements until after a child's birth. (Pl. Exs. 8, 434, 458, 643; Jane Doe L Dep. Tr. at 42-43).

105. The counseling that Defendants provide is deficient because it often does not explore the variety of alternative child care arrangements available, but instead,

focuses on adoption alone. (Jane Doe QQQ testimony; Major testimony).

106. Indeed, Defendants' promotion of adoption as the preferred child care arrangement has led some women prisoners to avoid seeking counseling from Defendants altogether because they believe Defendants will not provide appropriate assistance in making alternative child care arrangements. (Jane Doe QQQ testimony; Major testimony).

107. Defendants have also failed to provide women prisoners with adequate opportunities to discuss child care arrangements with family members and other interested persons well in advance of their child's birth. (Pl. Ex. 9).

108. In several instances, women prisoners like Jane Doe O and Jane Doe T4 have lost custody of children born during incarceration because of the lack of counseling and assistance from Defendants regarding placement of their children. (McMurtry Dep. Tr. at 123-24).

109. In addition, Defendants' failure to provide adequate counseling to women prisoners regarding child care arrangements causes women prisoners to suffer unnecessary stress during their pregnancies because they fear that proper child care arrangements will not be made in advance of their children's birth or if they are made, will be made in haste and without informed consideration. (Pl. Ex. 9; Krull Dep. Tr. at 96; McMurtry Dep. Tr. at 120-26; Major testimony).

110. As expressed to then Director Ridley by the members of Defendants' Task Force on Pregnant Female Offenders: "Staff knew only too well the pain and suffering of a resident who, upon the birth of her child, was returned to custody. Staff knew only too well the agony of the pregnant resident who was also HIV positive and who suffered for the fate of her unborn child. Staff knew only too well the misery of the woman resident whose child was placed in foster care with an unknown person in an unknown part of the city." (Pl. Exs. 601, 307, 434, 605, 625; McMurtry Dep. Tr. at 120-26).

111. In some instances, Defendants' failure to provide adequate counseling has been so deficient that some newborn children of members of the Plaintiff class have had to remain at D.C. General Hospital or at other hospitals after birth as "boarder babies" for an extended period of time. (Pl. Exs. 434, 458, 539).

112. Moreover, each day that such children remain boarder babies, their mothers endure unnecessary stress because of the circumstances in which the children are living. Often, this stress is not alleviated, but exacerbated while children remain boarder babies because Defendants have no established policy for arranging opportunities for women prisoners to visit with their infants boarding at D.C. General Hospital. This is so even though Defendants have deemed it essential to provide sufficient opportunities for contact and

bonding between mother and child. (Pl. Exs. 48, 341, 458; P. Jackson Dep. Tr. at 119-121; Ray (II) Dep. Tr. at 16-19).

113. Jane Doe VVV, for example, gave birth to a baby boy on October 19, 1992. Ad hoc arrangements were made for her to visit her baby on November 25, 1992 and December 15, 1992. However, there was no specific written policy regarding visitation with babies and no other visitation was arranged. When she went to visit her child, Jane Doe VVV was transported in full restraints. Jane Doe VVV's baby boy remained a "boarder baby" at DCGH for almost four months until he was discharged to Jane Doe VVV's maternal aunt on February 17, 1993. (Pl. Exs. 48, 458).

Postpartum Care

--Postpartum Examination

114. Women who have had a normal vaginal delivery should receive a postpartum examination approximately six weeks after delivery. (Pl. Ex. 642; C. Hall Dep. Tr. at 75; Major deposition and testimony).

115. Women who have had a cesarean section or certain complications during pregnancy or delivery should have a postpartum examination within two weeks of delivery in addition to the six-week examination. (C. Hall Dep. Tr. at 76-78; Major deposition and testimony).

116. Most women incarcerated at CTF receive their postpartum care at D.C. General Hospital. (C. Hall Dep. Tr. at 74).

117. Defendants do not provide adequate postpartum care to women prisoners. Jane Doe L, for example, has not received her "six-week check-up" almost one year after having given birth. Jane Doe L Dep. (Jane Doe A Dep. Tr. at 35-39; Jane Doe L Dep. Tr. at 18-25; Major deposition and testimony).

118. Defendants are aware that women who do not receive adequate postpartum care face a risk that problems associated with delivery and postpartum recovery go undetected. Jane Doe L, for example, continues to suffer significant back pain almost ten months after giving birth. In addition, Jane Doe L's menstrual periods have been very irregular since the delivery. Although Jane Doe L does not know whether giving birth caused these medical conditions, Defendants have not provided her with appropriate postpartum care to be able to make that determination and, if necessary, to recommend an appropriate course of treatment. (Jane Doe L Dep. Tr. at 18-25, 44-45; Major deposition and testimony).

--Postpartum Counseling

119. Postpartum counseling is necessary for a woman who suffers from postpartum depression or depression resulting from the separation from her child, or for a woman whose pregnancy ends in miscarriage, stillbirth, or death shortly after birth. Postpartum counseling is also necessary for a woman whose child has not been placed with an appropriate care taker and thus remains at D.C. General Hospital as a "boarder baby." Defendants have failed to provide adequate postpartum

counseling to women in these circumstances. (Pl. Ex. 48; Major testimony).

120. Jane Doe UUU, for example, gave birth to a baby in November 1992. The baby, however, had medical problems and had to remain at DCGH. Unfortunately, Jane Doe UUU's baby died soon thereafter. On December 4, 1992, she went to review the remains of her three-week old baby and to sign documents regarding the child. Jane Doe UUU received no counseling regarding her baby's death. (Pl. Ex. 48).

121. Jane Doe XXX gave birth to a baby girl on June 6, 1992. On Sunday October 10, 1992 an employee of Defendant. CTF received a telephone call from a physician at Children's Hospital informing him that Jane Doe XXX's infant daughter had died. Jane Doe XXX received no counseling regarding her baby's death. (Pl. Ex. 48).

Coordination of Medical Care

122. Defendants do not follow the Memorandum of Understanding between D.C. General Hospital and the Department of Corrections exists to facilitate communication between the two institutions and to identify areas of responsibility accorded to each. This Memorandum of Understanding, effective since 1991, specifically addresses important aspects in the provision of care, including accessing medical information, interagency communication, quality assurance, and continuity of care (Pl. Exs. 455, 667; Clark Dep. Tr. at 287-91; Major deposition and testimony).

123. As a result, there is a lack of communication and coordination at 3 levels: (1) medical to medical (i.e., Doctor to Doctor); (2) nurse to nurse (DCGH to CTF); and (3) DCGH Medical to DOC-CTF custody staff. (Pl. Ex. 667; Clark Dep. Tr. at 287-91; Major deposition and testimony).

124. Defendants' failure to comply with the Memorandum of Understanding and the lack of effective coordination and communication between D.C. General Hospital and CTF, negatively affects Defendants' ability to provide adequate gynecological and obstetrical care to women prisoners incarcerated at CTF. (Pl. Ex. 667; Major deposition and testimony).

125. No liaison performs the responsibilities as directed by the Memorandum of Understanding. (Pl. Ex. 667; Major testimony).

126. Defendants fail to conduct regular meetings as directed by the Memorandum of Understanding. (Pl. Ex. 445, 667; Clark Dep. Tr. at 122-23, 143).

127. Medical information concerning individual patients is not routinely shared between medical personnel at the two institutions, nor is there any communication among health care providers about the quality of obstetrical or gynecological care provided to CTF women prisoners at DCGH. (Pl. Ex. 667; C. Hall Dep. Tr. at 151; McCathorine Dep. Tr. at 271-73; Major testimony).

128. There is no written policy or protocol for determining in what instances women should receive obstetrical or gynecological care at DCGH rather than at CTF. Instead, the decision is left up to the individual members of the medical staff at CTF. (C. Hall Dep. Tr. at 114-15; McCathorine Dep. Tr. at 271-73).

129. There is no coordinated effort to reduce the number of "boarder babies" at DCGH by providing comprehensive and coordinated social services to pregnant women prisoners at CTF. (Pl. Ex. 434; W. Hall Dep. Tr. at 188-91).

130. Although Defendants are aware that women prisoners at CTF are often unable to keep scheduled medical appointments at D.C. General Hospital because correctional officers are unavailable to take them, no effective effort has been made to remedy this problem. (Pl. Ex. 389).

131. Fifth, D.C. General Hospital physician orders are not followed by follow-up care physicians at CTF. (Jane Doe QQQ testimony).

IV. PROGRAMS

General

132. Although Defendants have written documents professing the goal to provide equitable programs for female offenders as compared to similarly situated male offenders, "while simultaneously meeting the uniquely gender-related needs of the incarcerated female," they have failed to achieve

this goal mandated by the Constitution and federal and state law. (Pl. Exs. 51, 211, 281, 284, 289, 291, 312, 323, 338, 339, 347, 348, 350, 434, 482, 665).

133. In September 1993, Defendants admitted that they were housing 99.5% of the female D.C. Code offenders "without having planned, developed, and implemented either programs or resources to meet the long-term treatment needs of this unique population." (Pl. Ex. 665).

134. The Correctional Treatment Facility (CTF) houses 256 medium custody, general population female inmates serving sentences of two years to life. (Pl. Exs. 319, 434; - Elzie Dep. Tr. at 44-47).

135. Medium custody men can be sent to one or more of several institutions depending upon a variety of penological goals ranging from sentence-serving to programming to preparing for release. (Gibbons Dep. Tr. at 43-45; Krull Dep. Tr. at 34-39). Men often transfer along the continuum and are assigned to each of these facilities for a period of time. (Braxton Dep. Tr. at 17)

136. Medium custody men can be housed at the Occoquan reservation, a high-medium facility consisting of multiple dormitories located on a reservation. (Pl. Exs. 452, 508, 621; Braxton Dep. Tr. at 16; Gibbons Dep. Tr. at 43-45; Krull Dep. Tr. at 36-37).

137. Medium custody men can also be housed at the Central Facility, a medium-medium facility. Central is the

District's master program facility that provides male inmates with the opportunity "to participate in high intensity and comprehensive programming." (Pl. Exs. 452, 508, 621; Braxton Dep. Tr. at 17; Gibbons Dep. Tr. at 43-45; Krull Dep. Tr. at 34-39).

138. Medium custody men within five years of release can also be housed at the Medium Facility, a low-medium institution. (Pl. Exs. 452, 508, 621; Braxton Dep. Tr. at 17; Gibbons Dep. Tr. at 43-45; Krull Dep. Tr. at 34-39)

139. Women prisoners at CTF are similarly situated to men prisoners at Central, Medium, and Occoquan. (Lancaster deposition and testimony; Riddick Dep. Tr. at 41-42).

140. The male inmates housed at CTF are not similarly situated to the women prisoners in the women's unit at CTF, but are special population inmates participating in the voluntary, 12-18 month prerelease substance abuse treatment program, or the 30-45 day Reception and Diagnostic evaluation process. (Pl. Exs. 319, 425; Minor Dep. Tr. at 71-74; Ray (I) Dep. Tr. at 90; Riddick Dep. Tr. at 40; Jane Doe V Dep. Tr. at 69).

141. The Minimum Security Facility houses minimum custody male inmates who are within two years of a presumptive release date. (Pl. Exs. 346, 452, 621).

142. The Minimum Security Annex houses 178 minimum custody female inmates who are within two years of a presumptive release date. (Pl. Exs. 346, 434, 621).

143. Women prisoners at the Annex are similarly situated to men prisoners at Minimum. (Lancaster deposition and testimony; Ryan deposition).

144. The legal concept of parity is one that has a practical meaning to prison administrators and one that is endorsed by the American Correctional Association (ACA). (Pl. Exs. 319, 589; Lancaster deposition and testimony). The ACA requires that: "Correctional systems must be guided by the principle of parity. Female offenders must receive the equivalent range of services available to other offenders, including opportunities for individualized programming and services that recognize the unique needs of this population." (Pl. Ex. 589).

145. Defendants, the District of Columbia and the D.C. Department of Corrections, receive federal financial assistance. (Pl. Ex. 602; Def. Answers Int. No. 2).

Academic Education

146. Defendants provide women at CTF with education programs that are inadequate and inferior as compared to those provided to male inmates at Central, Medium, and Occoquan. (Lancaster deposition and testimony).

147. Adult female inmates do not receive reception and diagnostic studies, available to similarly situated male inmates, and thus there is no comprehensive educational, vocational, and psychological testing for the women's needs

and interests to guide appropriate programmatic solutions.

(Pl. Exs. 281, 663, 665; Gibbons Dep. Tr. at 45, 62).

148. Defendants provide women at CTF with only part-time academic education classes, but provide the men at Central, Medium, and Occoquan with the opportunity for full-time classes. (Pl. Exs. 217, 242, 343, 490, 661; Gibbons Dep. Tr. at 61; Krull Dep. Tr. at 42, 47). No evening classes are available to the women as originally planned at CTF. (Pl. Exs. 330, 444).

149. No college education program was available to women prisoners at CTF from May 1992 to January 1993. (Pl. Exs. 330, 344, 449).

150. Defendants do not provide women at CTF with a four year college degree program. (Pl. Exs. 420, 591; Jane Doe V Dep. Tr. at 119-20; 125-26).

151. Men at Central, Medium, and Occoquan are provided with four-year B.A. and B.S. programs run by the University of the District of Columbia (UDC) and Park College in a variety of fields like urban studies and media technology. (Def. Answers Int. No. 7; Pl. Exs. 215, 216, 235, 472, 516, 528; Gibbons Dep. Tr. at 66-70; Krull Dep. Tr. at 48-49; Jane Doe V Dep. Tr. at 119-20; 125-26).

152. Women at CTF are offered one associates' degree program through Atlantic Union College in the area of "general studies" and a corresponding one-year precollege certificate program. (Pl. Exs. 383, 420, 591).

153. Men at Central, Medium, and Occoquan are offered associates' degree programs through UDC and Park College. UDC offers a precollege program and an associates' degree program in a variety of fields including accounting, computer science, legal assistance, media technology, urban studies, and business management. Men at Central, Medium, and Occoquan are provided with more fields of study and variety of courses than women at CTF. (Pl. Exs. 215, 216, 235, 375, 376, 389, 526; Gibbons Dep. Tr. at 68-69; Krull Dep. Tr. at 50).

154. Defendants require women at CTF to finance the two-year Atlantic Union program with grant monies. However, - similarly situated men are offered two and four year college programs through UDC at no cost, which do not require personal payment or application for grant monies. UDC also offers inmates the opportunity to receive their first semester free once released into the community. (Pl. Exs. 215, 216, 235, 420; Braxton Dep. Tr. 24-25).

155. The Atlantic Union program for women at CTF is taught by "electronic distance learning" through a computer. Men at Central, Medium, Occoquan have on-site classes with teachers who are able to motivate students and serve as role models and mentors. (Pl. Exs. 379, 420, 449, 591; Krull Dep. Tr. at 49; Ray (I) Dep. Tr. at 83).

156. Defendants impede the access of women inmates to the Atlantic Union courses they desire by abdicating their responsibilities to the college and by creating unnecessary

barriers to women's full access to and participation in the program. (Pl. Exs. 283, 330, 379, 420, 426, 521).

157. Women prisoners at CTF encounter scheduling problems with the delivery of their education programs that are not experienced by similarly situated men. All programming activities for women, including education, vocation, and library hours, are scheduled during the same two and one-half hour period each day. This scheduling limits women's ability to participate in more than one program and results in the women being idle for the majority of the day. (Pl. Exs. 283, 330, 405, 421, 515).

158. The amount of time allotted for women in the Atlantic Union program is insufficient based on Atlantic Union College standards. Evening and weekend computer lab hours for the women were scheduled for January to September 1993, but cancelled due to Defendants' inability to provide escorts and staff supervision for the women. (Pl. Exs. 374, 379, 420, 421, 426, 476, 515).

159. Defendants routinely fail to file the necessary paperwork for the women's Pell grant applications in time for the women at CTF to register them for the term. (Pl. Ex. 374, 420).

160. Books and materials are not received in time to participate in courses paid for by Pell grant monies.

161. Credits and Pell grant monies obtained for the Atlantic Union College program are not transferable to the

college program at the Annex and are not reimbursed when a woman is transferred to another facility or forced to drop out of class due to the failure to receive books. (Pl. Ex. 434).

162. The physical plant of CTF creates serious limitations on the programs and activities available to the women. CTF was designed as a controlled-movement treatment facility for substance abuse, mental health, and diagnostics that required intensive staffing. (Pl. Exs. 51, 330, 338, 405, 439; Elzie Dep. Tr. at 19). Defendants' placement of general population women prisoners in this controlled environment necessitates staff escorts to access centralized programming areas. (Pl. Exs. 339, 612).

163. Defendants' failure to appropriately staff the CTF women's unit results in programming staff being utilized to perform security escorts which in turn decreases program opportunities for women in all areas including education. (Pl. Exs. 319, 329, 330, 343, 405, 426, 665). Defendants' decision to substitute correctional officers for counselors has also reduced the program opportunities available to women. (Pl. Exs. 51, 405, 444).

164. Defendants do not offer educational instruction on the women's housing units as recommended by the CTF internal auditors, which would eliminate the strict reliance on escorts for programming. (Pl. Exs. 330, 338, 339, 405).

165. Similarly situated men at Medium and Central move freely around the facility and can easily access

education programs. (Gibbons Dep. Tr. at 64-65; Krull Dep. Tr. at 68). Similarly situated men at Occoquan, which is a controlled-movement facility, use a pass system instead of an escort system allowing them free access to all programs. (Braxton Dep. Tr. at 22-24). Such a pass system has not been adopted at CTF. (Pl. Ex. 374).

166. The District's internal policy of housing women in co-correctional facilities, and their policy of not providing coeducational programming, sharply limits the availability and quality of the education programs for women. (Lancaster deposition and testimony; Jane Doe V Dep. Tr. at 122-23)

167. Defendants provide women at the Annex with education programs that are inadequate and inferior as compared to those provided to male inmates at Minimum. (Lancaster deposition and testimony).

168. Defendants did not provide academic school to the women prisoners at the Annex for over seven months over the time period between May 1992 and October 1993. Defendants cancelled school three different times: for four months when the air conditioner was broken at the Annex trailer; a second time when the sole teacher was sick; and a third time when the Annex entered "shut down mode" for three months in anticipation of the transfer of all women to CTF. No substitute teachers were detailed to the Annex to provide education for the women, nor were women permitted to enroll in

the classes for men at Minimum. (Pl. Exs. 345, 470; Jane Doe VII deposition and testimony).

169. The basic education Defendants provide to the women at the Annex is inadequate because the one teacher can only offer part-time ABE and part-time GED classes. Part-time education is insufficient to provide the required educational programming to those women who need the instruction. The scheduling of the classes during the day overlaps with work time for many women, and thus denies them the opportunity to participate in educational classes. Defendants also provide women with less educational equipment such as computers and typewriters than men at Minimum. (Pl. Exs. 332, 345, 362, 470, 488; Jane Doe VII deposition and testimony).

170. Women at the Annex have received inadequate and inferior college education because Defendants do not escort them to class on time, they do not receive sufficient GED courses to qualify them for college courses, and the two elective course offerings through UDC are not part of a degree program. (Pl. Exs. 332, 489; Krull Dep. Tr. at 153; Jane Doe VII deposition and testimony).

171. Defendants are aware of the inadequate and inferior education provided to women prisoners, but have failed to implement plans to alter these inadequacies. (Pl. Exs. 227, 228, 282, 291, 330; Jane Doe VI Dep. Tr. at 100-01).

172. The lack of basic academic education harms women by denying them the ability to qualify for industry

employment, halfway house, parole, and work training.

(Gibbons Dep. Tr. at 112; Smith Dep. Tr. at 105-106; Stempson Dep. Tr. at 144).

173. Defendants' provision of limited access to education, and their provision of inferior educational programs, denies women the ability to earn good time credits pursuant to D.C. Code § 24-429 and D.C. Reg. 604.5 for release from prison. (Pl. Ex. 272).

174. Defendants' failure to provide adequate and equal post-secondary education increases women's recidivism rate because such a program is an effective way of reducing recidivism. (Pl. Ex. 592).

175. In addition, the lack of education programs reduces the options that women have upon release from prison for obtaining further education and employment. This employment is paramount in enabling women to obtain housing in the community and to care for and retain custody of their children. (Lancaster deposition and testimony).

176. The lack of equal and adequate education programs has a detrimental effect on women's morale and contributes to idleness and severe depression in prison. (Pl. Ex. 405; Smith Dep. Tr. at 105-06; Lancaster deposition and testimony).

Vocational Education

177. Defendants provide women at CTF with vocational education programs that are inadequate and inferior as

compared to those provided to male inmates at Central, Medium, and Occoquan. (Pl. Ex. 222; Lancaster deposition and testimony).

178. No vocational education programs were offered to women prisoners during the first five months they were housed at CTF. (Pl. Exs. 330, 449).

179. As of October 1992, Defendants provide women at CTF with only one vocational education class in graphic arts which is open to six minimum-custody women every nine months. Pursuant to a consent decree, female youth offenders (YRA) women are required to be enrolled in vocational programming, - and these inmates occupy the majority of the available vocational positions. (Pl. Exs. 294, 426). Three short skills classes in the stereotypical female occupations of word processing, typing and sewing are also available to women. (Def. Answers Int. Nos. 10 & 11; Pl. Ex. 306; Jane Doe V. Dep. Tr. at 127-28).

180. Because women are classified to CTF on the basis of gender, they are denied access to many vocational education and training programs which are available to male prisoners. Defendants provide men at Central, Medium, and Occoquan with a wide range of comprehensive vocational education programs including: auto body, auto mechanics, barber science, brickmasonry, building maintenance, business typing, carpentry, culinary arts, drywall/painting, digital electronics, electricity, graphic arts, photography and

plumbing. (Def. Answers Int. No. 10; Pl. Exs. 215, 216, 235, 267, 478, 490, 491, 508, 516, 517, 621; Gibbons Dep. Tr. at 75-78; Krull Dep. Tr. at 53-56).

181. Staffing inadequacies and escort problems at CTF restrict women's access to vocational education. (Pl. Exs. 329, 330, 405). Due to these constraints, the time scheduled for women to participate in the graphic arts program is insufficient to enable them to complete the 1080 hours necessary for certification in the nine month program. (Pl. Ex. 306).

182. Women at CTF do not have a prevocational Employment Techniques, Awareness and Preparation (ETAP) class, and the prevocational twelve week Lifeskills class was offered only one time. (Pl. Ex. 374). Similarly situated men have both ETAP and Lifeskills classes available to them. (Pl. Exs. 215, 216, 235, 490, 516).

183. Medium custody, long-term women, who can only be assigned to CTF, have no apprenticeships available to them. (Defs. Answers Int. No. 12; Jane Doe V Dep. Tr. at 128). However, similarly situated men have access to a variety of apprenticeships including carpentry, culinary arts, dental technology, electricity, plumbing, upholstery, and boiler plant operations. (Pl. Exs. 215, 216, 234, 235, 264, 267, 268, 490, 491, 508, 517, 518; Gibbons Dep. Tr. at 84-86).

184. Defendants provide the women at the Annex with only one vocational education program in graphic arts that

does not adequately meet the needs of the women. (Pl. Ex. 222). The abbreviated program in graphic arts is available to only a few women and the fifteen-week program is too short to provide sufficient vocational education and training. Follow-up on-the-job training is not adequately provided as the women are not routinely hired by the Print Shop to continue their skill development.

185. Defendants do not provide women at the Annex with equivalent vocational opportunities as similarly situated men. Men have different vocational opportunities in the DCDC and thus different vocational needs than women prisoners during minimum custody incarceration. Due to the typically longer sentence structure of men, men have already obtained vocational education training by the time they are transferred to Minimum. Once transferred to Minimum, the men continue this training by working on trade details that are not available to women. (Lancaster deposition and testimony).

186. The need for job readiness skills is particularly evident among female offenders. Women offenders in D.C. have an unemployment rate of 85%, compared to a national average of 45% for female offenders, and an average of 62% for all D.C. inmates. (Pl. Exs. 520, 588; Ryan deposition). The need for skills promoted by vocational training is therefore more acute for female offenders.

187. Defendants' provision of inadequate and inferior vocational education programs significantly harms

women because they do not have the opportunity to gain marketable, employable skills that will lead to meaningful employment upon release from prison. (Jane Doe VI Dep. Tr. at 112-16).

188. Because of the lack of vocational training, women are unable to work in higher grade detail jobs which develop job skills, pay more money, and build on skills taught in vocational programs. (Pl. Ex. 238; Krull Dep. Tr. at 54).

189. Women are precluded from earning good time credits from vocational education that can shorten their term of imprisonment. (Pl. Ex. 272; Krull Dep. Tr. at 56).

190. Women are also unable to earn the money needed to support themselves and their dependent children while in prison. (Pl. Ex. 238).

Work Opportunities

191. Defendants provide women at CTF and the Annex with work details that are inadequate and inferior as compared to those provided to similarly situated men. (Lancaster deposition and testimony). Work details are those job assignments for inmates that will enable them to learn job skills and develop work habits while maintaining the facility in clean, working order. (Pl. Ex. 363). Details are paid under the Non-Industrial Pay System (NIPS) which is a grade system ranging from \$6.50 per month to \$21 per month. (Pl. Exs. 363, 379).

192. Defendants provide men at Central, Medium, Occoquan and Minimum with a wide range of details offering on-the-job-training including carpentry, welding, electric, plumbing, painting, drywall, brickmasonry, and construction. (Def. Answers Int. 16; Pl. Exs. 278, 359, 370, 371, 372, 379; Gibbons Dep. Tr. at 124-25; Krull Dep. Tr. at 61). Neither women at CTF nor at the Annex work on these trade details available to men. (Pl. Exs. 265, 266, 269, 379, 349).

193. The only additional work details proposed for women at CTF are in stereotypical female jobs of nurses aide and housekeeper. (Pl. Exs. 473, 512).

194. Women at the Annex are limited to cleaning, clerical, and some landscape jobs. Women do not work on facilities maintenance work squads on their own compound. (Pl. Exs. 345, 349, 379). Women are also precluded from working on jobs such as the dairy, farm, car wash, and culinary. (Pl. Ex. 379; Smith Dep. Tr. at 164-65)

195. Defendants provide the women at CTF with industrial work opportunities that are inadequate and inferior as compared to those provided to male inmates at Central, Medium, and Occoquan. (Pl. Ex. 225; Lancaster deposition and testimony; Jane Doe V Dep. Tr. at 128-29). A prison industry is run like a private business for profit in that the industry makes a product and employees (inmates) are held accountable for their work performance and attendance. (Gibbons Dep. Tr. at 122-24).

196. Although women are in desperate need of job training opportunities, Defendants provide no industries for women at CTF. (Pl. Ex. 269; Jane Doe V Dep. Tr. at 128-29). Similarly situated men are provided with eleven different industrial opportunities that earn from \$200 - \$300 per month: Accounting, Furniture Repair, Garment Shop, Laundry, Maintenance, Metro Shop, Metal Shop, Print Shop, Supply, Warehouse. (Def. Answers Int. Nos. 19 & 20; Pl. Exs. 225, 529, 594; Krull Dep. Tr. at 58-59).

197. The highest wage a woman at CTF can earn in any job is \$21 per month, while the highest wage a man can earn working in an industrial job can reach \$300 per month. (Def. Answers Int. No. 23; Pl. Exs. 363, 594; Krull Dep. Tr. at 58-59).

198. Women at the Annex are denied equal access to the full range of industrial opportunities at Central based on their gender and stereotypical notions of women. (Ryan Report; Gibbons Dep. Tr. at 81, 92-94, 114-15, 119-21). Women work in two industries, whereas the men are employed in eleven different industries. (Def. Answers Int. No. 20; Pl. Exs. 264, 344, 621, 662; Gibbons Dep. Tr. at 111-13).

199. Defendants' exclusion of women from certain shops at the Central Industries on the grounds of the women's lack of strength and the lack of bathrooms devalues women and is characteristic of gender bias. (Gibbons Dep. Tr. at 81, 92-94, 114-15, 119-21; Ryan Report).

200. The women's lack of seniority in the workplace, caused by their shorter sentence structure as compared to the men at Central, results in the women receiving lower wages than men. (Pl. Exs. 362, 662).

201. Women at the Annex are also excluded from the two new industries at Minimum in agriculture and landscape. (Def. Ex. 130; Stempson Dep. Tr. at 159-60; Ryan Report).

202. Defendants provide women at the Annex with work training furlough opportunities that are inadequate and inferior as compared to those provided to male inmates at Minimum. (Lancaster deposition and testimony). The work training furlough is a program available to minimum custody inmates that permits them to leave the institution during the day to work for a private employer at prevailing community wages, and then return to the prison each night. (Pl. Exs. 331, 378, 442). Once employed in the program, inmates are required to reimburse the institution \$2.00 per day for the cost of their incarceration. Inmates are also required to save a certain percentage of funds earned in the work training programs to accumulate savings to aid in their transition back into the community. (Derr (I) Dep. Tr. 106-08; Smith Dep. Tr. at 141)

203. No work training furloughs are available to women at CTF, although Defendants' plans called for this program to be available to women upon the opening of CTF. (Def. Answers Int. No. 22; Pl. Exs. 51, 339, 444).

204. Defendants' implementation of the work training policy severely impacts women by denying them the opportunity to participate equally in this program. Only three women were approved for work training in all of 1993, and only two women in 1992. An average of 50 men from Minimum are employed in work training programs at any one time. (Def. Answers Int. No. 23; Pl. Exs. 344, 346, 369). The District has failed to achieve its own stated goal of increasing work training participation by women. (Pl. Exs. 324, 344, 348, 349, 434).

205. The few women who have participated in the work training program have been placed in stereotypical jobs such as clerical assistant, telemarketing specialist, and cook. (Pl. Ex. 369; Derr (I) Dep. Tr. at 137). Similarly situated men are placed in jobs that lead to higher paying jobs in the community, and some of which pay higher hourly wages in prison, such as barber, construction worker, custodian, truck driver, plumber, and auto mechanic. (Pl. Ex. 369; Derr (II) Dep. Tr. at 10-11).

206. The work training guidelines and procedures deny women equal participation in the work training program because they were designed for male offenders. (Krull Dep. Tr. at 173). The guidelines themselves are designed for men's longer sentences and accessibility to halfway houses. (Krull Dep. Tr. at 172-73). The mandatory 90-day waiting period before an inmate is eligible for work training is arbitrary as

applied to female offenders. (Pl. Exs. 378, 432; Krull Dep. Tr. at 116-18; Lancaster deposition and testimony).

207. Defendants are aware of, but have failed to remedy, the numerous problems women encounter with the delivery of the work training program. (Pl. Exs. 284, 365, 366, 367). Defendants fail to process paperwork necessary to qualify women for the work training program; they fail to provide women with transportation to job interviews; and they fail to provide adequate staff to administer the program for women. (Pl. Exs. 365, 366, 367, 368; Derr (I) Dep. Tr. at 113-21, 131; Krull Dep. Tr. at 170).

208. Women are significantly harmed by their inability to participate equally in work training. Women are unable to earn the significant wages that enable them to save money for the transition into the community. (Pl. Ex. 367; Derr (I) Dep. Tr. at 107-08).

209. Without significant work opportunities like industry and work training, women are unable to participate in rehabilitative programs that teach skills by replicating the real world, facilitate personal growth, and additionally, satisfy requirements for parole eligibility. (Pl. Exs. 367, 378; Gibbons Dep. Tr. at 122-24).

210. Women are also unable to obtain jobs that would continue upon release. This lack of funds and employment prevents women from reintegrating into the community and

supporting their families. (Pl. Ex. 367; Derr (I) Dep. Tr. at 107-09).

Recreation

211. Defendants provide the women at CTF with recreation activities that are inadequate and inferior as compared to male inmates at Central, Medium, and Occoquan. (Pl. Exs. 405, 424; Lancaster deposition and testimony).

212. Women at CTF have outside recreation time for only one hour, three to five times per week. The scheduled time for outdoor recreation conflicts with work and other programs and thus denies some women recreation time altogether. Women have recreation in the gym three nights per week for two hours. Unlike the men, women are not permitted to choose to go to the gym or outside during recreation time, but instead must go where the officers or the majority of the group dictate. (Pl. Exs. 17, 18, 207, 209, 210, 424, 426; Jane Doe V Dep. Tr. at 72-73, 136-44).

213. Similarly situated men have outside recreation time "all day long" for 13 hours per day. (Krull Dep. Tr. at 66-67). They have gym time for at least three hours per day, six days per week. (Pl. Exs. 17, 207, 209, 210, 495, 496, 497, 508; Gibbons Dep. Tr. at 129-31; Braxton Dep. Tr. at 39-40; Krull Dep. Tr. at 66-67).

214. Men at Maximum, the most restrictive facility for maximum custody men with behavioral problems or particularly violent offenses, have more recreation time than

the women at CTF. (Pl. Ex. 661; Roach Dep. Tr. at 16-17). The women at CTF are not similarly situated to this group of men, and thus should receive greater privileges than this population with restricted recreation time. (Elzie Dep. Tr. at 44-47; Riddick Dep. Tr. at 43-44).

215. The women at CTF have no regularly planned recreation activities, although programs such as drama, arts & crafts, and leisure skills are called for by the CTF Operation Manual. (Pl. Ex. 51). The CTF recreation yard is too small to permit running, softball, or other organized sports activities. (Pl. Exs. 204, 207; Jane Doe V Dep. Tr. 72-73, 136-44.) Women were not given appropriate clothing for recreation until October 1993. (Pl. Ex. 426).

216. Similarly situated men have a track, ball field, handball wall, pool tables, horseshoes, and basketball courts. They have a wide variety of recreational activities such as sports (including boxing, basketball, softball, flag football, softball, soccer, and volleyball), nightly video movies, rock bands, drama groups, and arts and crafts. Men receive free athletic clothing and equipment from Lorillard Company for turning in empty cigarette packs. (Pl. Exs. 17, 209, 210, 495, 496, 497, 508; Gibbons Dep. Tr. at 128-37; Krull Dep. Tr. at 66, 68).

217. Staffing inadequacies and escort problems at CTF limit women prisoners' access to recreation and contribute to the inadequacy and inferiority in recreational activities.

Twenty to thirty minutes of the time allotted for women's recreation time at CTF is spent escorting the women outside or to the gym, thereby greatly reducing the time women have to recreate. Women are not permitted to attend or leave indoor or outdoor recreation without the group escort. (Pl. Exs. 213, 330, 374, 405, 424, 426; Jane Doe V Dep. Tr. at 141-42).

218. Defendants provide women at the Annex with recreation activities that are not equivalent to those provided to male inmates at Minimum. (Lancaster deposition and testimony).

219. The women's recreation trailer at the Annex is open for only 2-4 hours per day, often during times that conflict with scheduled program and work times. Women are permitted to use the men's gym and field only 3 hours each week. They have no designated outdoor recreation space on their own compound to which they have full access. (Pl. Exs. 22, 23, 25, 27, 28, 331, 477, 637; Jane Doe VII deposition and testimony).

220. Women are not permitted outside on the Annex compound during visiting hours because, according to Defendants, the male inmates from Minimum jump the fence and enter the Annex grounds undetected during visiting hours. (Smith Dep. Tr. at 189-90; Jane Doe VII deposition and testimony).

221. Men at Minimum have full-time, daily access to a track, field, weight trailer, and gym located on the Minimum

compound. They are permitted to recreate during all hours that do not conflict with scheduled visiting in the gym or other special programs. (Pl. Exs. 498, 499).

222. Women at the Annex have less opportunity for recreation than men. (Lancaster deposition and testimony). Women have ROTC training, two intermural sports, volleyball and basketball that occur once per month, and one team sport, softball, in the summer. (Pl. Exs. 22, 23, 25, 27, 28, 332, 477, 499, 500). Women are denied participation in the Renaissance Drama Troupe available to the men. (Pl. Exs. 626, 627; Jane Doe VII deposition and testimony). Women also have insufficient dayroom space for recreation inside the housing units. (Pl. Ex. 334, 637).

223. Men at Minimum have ROTC training and six weekly intermural sports: boxing, basketball, softball, flag football, volleyball, and soccer. The men are able to participate in the Renaissance Drama Troupe. (Pl. Exs. 498, 499, 626).

224. Defendants do not provide sufficient staff to ensure that women at the Annex receive equivalent recreation programs as men at Minimum. Women at the Annex did not have a recreation specialist to supervise and plan activities and open the recreation trailer from June 1992 to late October 1992. (Pl. Exs. 22, 26, 332, 630, 631). Once detailed, the recreation specialist has been utilized in different capacities which results in women being denied adequate and

equal recreational opportunities. (Pl. Exs. 22, 24; Jane Doe VII deposition and testimony).

225. Defendants are aware of the inadequate and inferior recreation opportunities for women, but have failed to correct the problems. (Pl. Exs. 18, 19, 20, 21, 282, 320, 330; Jane Doe V Dep. Tr. at 136).

226. The women are significantly harmed by the inferior and inadequate recreation time and activities. The women at CTF suffer psychological and physical harm caused by their lengthy confinement in a high security, restricted-movement facility that was never intended to house long-term, general population inmates. (Lancaster deposition and testimony; Jane Doe V Dep. Tr. at 69-72).

227. The lack of access to recreation leads to idleness and weight gain which contribute to morale problems, depression, and tension among the women. (Lancaster deposition and testimony; Jane Doe V Dep. Tr. at 69-72, 145; Jane Doe VII Dep. Tr. at 71-72).

228. Defendants provide women at CTF with smoking privileges that are inadequate and inferior as compared to those provided to male inmates at Central, Medium, and Occoquan. (Pl. Ex. 622; Lancaster deposition and testimony). Women at CTF are not permitted to smoke at all. (Pl. Exs. 249, 251). The reason for the no-smoking rule at CTF -- that inmates are in intensive treatment programs -- is not applicable to general population women and serves only to

deprive women of a privilege given to similarly situated men prisoners. Men at Central, Medium, and Occoquan are permitted to smoke outside, which they have access to most of the day, and in some indoor designated areas. (Pl. Ex. 249; Braxton Dep. Tr. at 46-47; Gibbons Dep. Tr. at 143-44).

229. Women are harmed by the lack of smoking privileges because they are denied privileges afforded to other inmates simply on the basis of sex. This denial of privileges important to inmates perpetuates societal stereotypes and patronizing views of women. (Lancaster deposition and testimony).

Religious Programs

230. Defendants do not provide women at the Annex with the equivalent range of religious services and programs as they provide to similarly situated men at Minimum. (Pl. Exs. 196, 211, 331, 345, 475, 494; Jane Doe VII Dep. Tr.).

231. Women do not have the full-time access to a chaplain that is available to men. (Pl. Exs. 345, 494; Krull Dep. Tr. at 189; Jane Doe VII deposition and testimony). The chaplain who is assigned to the women does not perform the services required by Department Order 4410.1B, such as delivering notices of family illness and death and soliciting religious volunteers for programs for the women. (Pl. Exs. 191, 219, 475; Smith Dep. Tr. at 176).

232. Women have inadequate space for religious services and studies, as they are denied use of the chapel or

any other program space on the men's compound. (Pl. Exs. 331, 345, 494; Krull Dep. Tr. at 188-89).

233. Women prisoners are significantly harmed by the lack of equal and adequate access to religious programs. Women prisoners have a great need for chaplaincy services because they rely heavily on chaplains and religious volunteers for support, connection with their children, and as confidants. For women, the chaplain and religious services are a great source of support, rehabilitation, and preparation for reentry into the community. (Lancaster deposition and testimony; Minor Dep. Tr. at 24-27, 69-70, 82-87). -

Housing

234. Defendants have housed women prisoners under a series of ad hoc arrangements that were not intended for general population female inmates and that do not provide adequate and comparable programmatic activities for women prisoners. (Pl. Exs. 211, 291, 321, 328, 330, 665; Jane Doe V Dep. Tr. at 69-73).

235. Women were initially housed at the D.C. Jail or in out-of-state facilities run by the Federal Bureau of Prisons (BOP). (Pl. Ex. 434; Plaut Dep. Tr. at 41-42).

236. In September 1989, women prisoners began to be housed at the Minimum Annex. (Pl. Ex. 452). The Annex dormitories were converted from old barracks on a Nike missile site and are approximately 40 years old. (Pl. Exs. 331, 350, 434; Plaut Dep. Tr. at 105-06). The Department of Corrections

acquired the buildings in the late 1970s, and used them as its training academy. The buildings were then used to house male prisoners for one year prior to its housing women prisoners. (Pl. Ex. 452; Plaut Dep. Tr. at 105-06). The conversion of the training academy to inmate housing was intended to be temporary. (Pl. Ex. 452).

237. In late 1991, the District agreed to the return of 1200 prisoners housed in the BOP, including most of the female offenders. (Pl. Ex. 438; Plaut Dep. Tr. at 43). As of May 1992, the District planned to house women prisoners, including those returning from the federal BOP and those housed at the Annex, at the newly opened CTF. (Pl. Exs. 330, 333, 434, 438; Plaut Dep. Tr. at 43).

238. Between May 1992 and September 1992, the Annex entered "shut down mode" in anticipation of closing, and curtailed programs and services for women. (Pl. Exs. 332, 334, 346; Derr (I) Dep. Tr. at 105; Smith Dep. Tr. at 13).

239. Then due to increasing numbers of women prisoners, the District planned to reopen one dormitory at the Annex to women and open one Annex dormitory, separated by a wooden fence, to men in the Unfoldment substance abuse program. (Pl. Exs. 333, 334). Because the programming trailers were to be designated for the men, the Administrators noted that this housing option would create problems in providing basic services to women at the Annex. (Pl. Ex. 334). Therefore, the District's plan was to house only female

misdemeanants within 180 days of release at the shared Annex facilities because by "[c]onfining the population to short-term offenders, the risk of a law suit is diminished." (Pl. Ex. 334). However, the District then decided to utilize the both Annex dormitories to house women felons and misdemeanants serving less than two years of their sentence, and to house the remaining longer term women at CTF. A few DC women prisoners are still sent to the federal BOP.

240. Toward the end of building completion, the District decided to house female prisoners from Lorton and the federal BOP at CTF. (Pl. Exs. 330, 338, 350, 438). CTF was - designed to house inmates for intensive substance abuse and mental health treatment. (Pl. Exs. 330, 338, 439; Elzie Dep. Tr. at 19). This decision to house women at CTF was justified on the grounds that it would save the District over 4 million dollars in its 1993 budget by eliminating the need to provide expensive mental health services at CTF, and by reducing the cost of care for incarcerated women prisoners. (Pl. Ex. 338). However, CTF's controlled-movement design, requirement of escorts for all programming areas, and the resulting limited access to program and outdoor areas are not proper for the confinement of general population female offenders. (Pl. Exs. 51, 339; Lancaster deposition and testimony).

V. ENVIRONMENTAL CONDITIONS

Lorton Minimum Security Annex

241. The women prisoners at the Annex are housed in two barrack-style dormitories that house between 80 and 100 inmates each. (Pl. Ex. 637; Duel testimony).

242. Dormitory #6 houses between 80 and 90 women in a single room. The furniture in the dormitory consists of double bunks lined against either side of the building. The bunks are approximately an arm's length apart. (Pl. Ex. 637; Duel testimony).

243. All bunks have heavy foot lockers; only some bunks have vertical lockers. The sleeping area itself has no tables and no chairs. (Pl. Ex. 637; Duel testimony).

244. The 80 to 90 women in Dormitory #6 share a dayroom that is only 26 feet by 12 feet -- approximately 4 feet per inmate. The room is crowded with chairs and one cardtable. The dayroom houses the only television for the dorm and the only two telephones. The main entrance into and out of the dorm, and the only entrance to the bathroom, is also off the dayroom. (Pl. Ex. 637; Duel testimony).

245. The amount of dayroom space in Dormitory #6, especially in light of the lack of any amenities in the sleeping areas, is grossly inadequate. (Pl Ex. 637; ACA 3-4130; ACA 3-4131; Duel testimony).

246. The 80 to 90 women in Dormitory #6 share six toilets and seven showers. Under the standards set by both

the American Correctional Association (ACA) and the American Public Health Association (APHA), this is a grossly inadequate ratio. (Pl. Ex. 637; ACA 3-4132; ACA 3-4133; Duel testimony).

247. Dormitory #7 houses 84 to 94 women in two wings. "A-Wing" houses approximately 60 women in double bunks, while "B-Wing" houses approximately 30 women, also in double bunks. The bunks are about an arm's length apart. (Pl Ex. 637; Duel testimony).

248. Some of the bunks have vertical lockers; many do not. All bunks have heavy footlockers. Like Dormitory #6, there are no tables or chairs in the sleeping areas. (Pl. Ex. 637; Duel testimony).

249. Both wings of Dormitory #7 open onto a dayroom that is only 31 feet by 24 feet -- approximately 6 feet per inmate. Most of the available space is taken up by the officer's desk and by the lines of chairs facing the only television. The dayroom in Dormitory #7 has two washers and driers for the personal clothing of the inmates. The only telephones available for the use of inmates are also in the dayroom. (Pl. Ex. 637; Duel testimony).

250. The amount of dayroom space in Dormitory #6, especially in light of any amenities in the sleeping areas, is grossly inadequate. (Pl Ex. 637; ACA 3-4130; ACA 3-4131).

251. The 94 women housed in Dormitory #7 share 6 toilets, 6 showers (unpartitioned), and 5 sinks. Under the standards set by both the ACA and the APHA, this is a grossly

inadequate ratio. (Pl. Ex. 637; ACA 3-4132; ACA 3-4133; Duel testimony).

252. Due to the dayrooms' small size and the large number of women who use them, the noise levels in the Annex dayrooms can reach exceedingly high levels. (Pl. Ex. 637; Duel testimony).

253. Another effect of the overcrowding is poor lighting for the lower bunks. Even at midday, a woman on a lower bunk does not have enough light to read or write without eye strain, and yet the dayrooms are too crowded and noisy to provide an alternative for any type of quiet pursuit.. (Pl. Ex. 637; Duel testimony).

254. There is no mechanical ventilation in the dormitories except for a handful of window air conditioners that operate during the summer months. During the winter, almost no fresh air is circulated in the dormitories, leading to a very high levels of carbon dioxide, especially while the women are sleeping. (Pl. Ex. 637; Duel testimony).

255. High levels of carbon dioxide are a reliable indicator that ventilation is poor and that the risk of airborne illness is high. (Duel testimony).

256. A sample inspection by Plaintiffs' environmental health expert revealed that over 40% of the mattresses and pillows in the dormitories were torn. (Pl. Ex. 637; Duel testimony).

257. The walls and roofs in both Annex dormitories are very poorly maintained and frequently leak. During the site visit of Plaintiffs' environmental health and fire safety experts in February 1994, the roof of Dormitory #7 was leaking directly onto an electrical box, which created a severe fire safety hazard. (Pl. Ex. 637; Duel testimony).

258. The Annex dormitories frequently have no heat or hot water. At times, the water heater must be repaired two or three times a day. (Pl. Ex. 170; Pl. Ex. 480; Duel testimony).

259. Both Annex dormitories are infested with cockroaches. The poor condition of the walls and the lockers provides ideal nesting places for cockroaches, as do the torn mattresses and pillows. (Pl. Ex. 637; Duel testimony; Jane Doe PP Dep. Tr. at 21-22).

260. The grounds of the Annex are poorly maintained and there is a critical need for an adequate drainage system. (Pl. Exs. 162, 172, 486, 637; Duel testimony).

261. The dumpsters on Annex grounds are left overfilled and uncovered, thus providing an attraction to vermin, skunks, and other wildlife. (Pl. Ex. 637; Duel testimony). In the summer, the dumpsters breed maggots and flies. (Duel testimony).

262. The limited programs available at the Annex are offered in four relocatable buildings (trailers). The two trailers furthest from the dormitories, which are used for

substance abuse programs and recreation, are equipped with toilets and sinks, but those facilities have never been hooked up to a sewage system and are instead used as storerooms. (Pl. Ex. 637; Duel testimony).

263. The Substance Abuse trailer is used by prisoners and staff for twelve hours a day. (Pl. Ex. 163; Pl. Ex. 637; Duel testimony).

264. The women have access to the gym only two nights a week. (Findings ¶ 232). On the other days of the week, the women have access only to the recreation trailer, which provides insufficient equipment and opportunity for large-muscle exercise of the type that is necessary to maintain good health. (Pl. Exs. 637, 477; Duel testimony).

265. At the time suit was filed and through at least February 1994, the women prisoners who worked at the prison industries at Central ate under unsanitary and unsafe conditions. While the men are released to eat in the dining hall, the women have their meals delivered to them and eat at their work stations. The meals were delivered in styrofoam containers on the floor of a truck and placed on a dirty table for distribution. By the time the food arrived, it was cold. (Pl. Exs. 353, 637; Duel testimony).

266. Cooked food that is not refrigerated must be maintained at a temperature of 140° or else it will provide an incubation for bacteria and food-related toxins. (Pl. Exs. 637, 531; Duel testimony).

267. The women prisoners who work at the prison industries at Central have no readily accessible sanitary facilities. While the men have bathrooms immediately off the industry floor, the women have access to a single toilet approximately 250 feet down the hall. Because they must be escorted to the restroom, they are only allowed to go during regularly scheduled breaks, at which time they must all go together. (Pl. Exs. 362, 637; Duel testimony).

268. Defendants were aware of the conditions at the industry for some time prior to the filing of this action, yet did nothing to abate them until just recently. (Gilmore Dep. Tr. at 32-39; Smith Dep. Tr. at 132-37; Gibbons Dep. Tr. at 115-17).

269. The food at the Lorton Minimum Security Facility is prepared under unsanitary conditions, and the kitchen is infested with vermin. (Pl. Ex. 637; Duel testimony).

270. The laundry practices at the Annex pose a potential risk to the women prisoners housed there. Institutional laundry from the Annex is transported to and from the laundry at Central in unlined plastic carts. Dirty laundry can be the source of illness pathogens which can survive and grow in unclean carts and then be transferred to clean laundry. (Pl. Ex. 637; Duel testimony).

271. In addition, the laundry at Central washes blankets and jumpsuits at temperatures that would not

screens; exposed electrical wiring or outlets that needed securing; and missing smoke detectors. (Pl. Ex. 144; Duel testimony).

275. In October 1992, the interdepartmental safety and sanitation inspection of the Annex revealed that there were no doors on two of the six toilet stalls in the bathroom for Dormitory #7. This situation continued unabated through the end of 1992 and all of 1993, and was not repaired until immediately before the site inspection conducted by Plaintiffs' environmental health expert for this litigation in February 1994. (Pl. Ex. 144; Duel testimony).

276. Knowledge of the conditions at the Annex was not confined to the Department's environmental inspectors. In July 1993, the Associate Directors of the Department were informed that repair needs at the Annex had reach "crisis proportions." (Pl. Exs. 170, 434; Gilmore Dep. Tr. at 108-11, 126-28; Smith Dep. Tr. at 83-88; McCathorine Dep. Tr. at 187-99; Duel testimony).

277. The women prisoners have repeatedly volunteered to help renovate and repair their living quarters. (Pl. Exs. 169, 177).

278. Those residents who had the skills and motivation to repair and renovate the facility remained idle because there was no staff to supervise them. (Pl. Ex. 170; Stempson Dep. Tr. at 98-99; Smith Dep. Tr. at 88-89).

279. Much of the repair work that has been done at the Annex was done in the two weeks preceding the site visit by plaintiffs' environmental health expert on February 23, 1994. (Pl. Exs. 422, 480; Duel testimony) (beds were repaired in Dormitory #7; showers and toilet partitions were repaired in both dormitories; the bathroom in Dormitory #7 was painted and plastered; the tiles in the bathroom in Dormitory #7 were repaired; a counter sink top was repaired; the toilet stalls were repaired in both dormitories; damaged window screens were repaired and replaced in both dormitories; the bathroom in Dormitory #7 was touched up with grout and silicone; a sink top in Dormitory #6 was repaired; blinds were installed on the bathroom windows in Dormitory #6; the tile in the bathroom in Dormitory #6 was replaced; toilet paper holders were hung in both dormitories; and toilet seats were replaced in both dormitories).

280. The modest repairs and renovations that Defendants have made in response to the recommendations made by Plaintiffs' experts and Defendants' own experts have not significantly reduced the risk of illness and injury generated by the living conditions at the Annex. (Duel testimony).

Correctional Treatment Facility

281. The construction of CTF finished in 1992. The facility consists of a series of multi-level buildings connected by inside walkways. The women are housed in what's known as "E Building." E Building has four housing levels,

each with two housing units. Each unit has two self-contained wings housing 32 women each in single cells. The two wings of each unit share a satellite kitchen and dining room. (Pl. Ex. 638; Duel testimony).

282. Although the building is new, the women prisoners housed at CTF are subjected to bitterly cold temperatures and leaking walls and ceilings due to construction defects in the CTF building. (Pl. Exs. 145, 159, 449 (1/4/93 report), 638; Duel testimony).

283. Prisoners' cells are located on the outer walls of the CTF buildings. These are solid masonry walls, with virtually no insulation and no perimeter heating, and they therefore reflect the outside temperature. Prisoners' beds are placed next to this outer wall. (Duel testimony; Jones Dep. Tr. (sealed) at 189).

284. The HVAC system does not provide enough heat to warm these uninsulated cells. (Duel testimony; Ray Dep. Tr. (II) at 162-64; Welch Dep. Tr. at 56-57). Cells at CTF are "extremely cold with temperatures as low as 40 degrees." (Pl. Ex. 159).

285. Both staff and inmates have experienced "an increase in colds and flu" due to the poor conditions. (Pl. Exs. 159, 425).

286. The cold temperatures are as prevalent in the warm weather as in the cold. (Pl. Ex. 430 (4/26/93 report; 8/31/93 report)).

287. The requests of women prisoners for extra blankets to combat the cold often go unheeded; blankets are given and then taken away; extra clothing is provided only sporadically. (Pl. Exs. 160, 430 (2/26/93 report), 649; Jane Doe III Dep. Tr. at 73-75; Jane Doe IV Dep. Tr. at 72-75; Jane Doe V Dep. Tr. at 109; Jane Doe VI Dep. Tr. at 78-79; Jane Doe IX Dep. Tr. at 71-73; Jane Doe A Dep. Tr. at 52; Jane Doe E Dep. Tr. at 105; Jane Doe W Dep. Tr. at 7-8; Jane Doe FF Dep. Tr. at 10-12).

288. Because of the cold air, many women try to block the air exchange vents in their cells with toilet paper and sanitary napkins in order to preserve heat. (Pl. Exs. 147 (reports of 9/8/93, 8/3/93, 8/17/93), 150, 151).

289. This improper use of toilet paper and sanitary napkins frequently leads to a shortage of these critical supplies. (Pl. Ex. 609; Welch Dep. Tr. at 55; Jane Doe II Dep. Tr. at 150; Jane Doe III Dep. Tr. at 68; Jane Doe IV Dep. Tr. at 63-64; Jane Doe V Dep. Tr. at 97-98; Jane Doe IX Dep. Tr. at 54-55; Jane Doe E Dep. Tr. at 102-03).

290. Although the Acting Administrator of CTF reported in December 1993 that the facility had finally "complete[d] work on the heating system," Pl. Ex. 428 (12/3/93 report), when Plaintiffs' environmental health expert toured the facility two months later, he recorded temperatures of 65° in the cells and was told that it was warmer than it had been in some time. (Pl. Ex. 638; Duel testimony). The temperature

was inconsistent across cells and was coldest in the cells at the end of each tier. (Pl. Ex. 638; Duel testimony).

291. In February 1994, the equipment used to heat the outdoor air coming into the building was broken and Defendants had shut off the ventilation system in order to preserve heat. As a result, no fresh air at all was circulating inside the building. (Pl. Ex. 638; Duel testimony).

292. The lack of adequate ventilation is particularly dangerous for the incarcerated population, many of whom have or have been exposed to tuberculosis, an airborne disease currently prevalent in prisons across the country. (Duel testimony). In May 1993, for example, over 120 residents of CTF were on TB prophylaxis. (Pl. Ex. 394). This is the only month for which such statistics were reported.

293. The air handling system at CTF is also excessively noisy. At 4:30 a.m., Plaintiffs' environmental health expert measured the noise level at 66 dBA; in an upper corridor it was nearly 10 decibels louder than that. (Pl. Ex. 638; Duel testimony).

294. Defendants have been aware of excessive noise levels on the women's housing units since at least October 1992 when an audit was conducted of the CTF facility. (Pl. Ex. 405). The former Administrator of the CTF attributed excessive noise levels to the fact that the building was designed to be carpeted, but due to budgetary constraints had

not been, and to "women's tendency to talk loud." (Pl. Ex. 330).

295. The Department's own policy states that noise levels in inmate housing units shall not exceed 70 dBa in daytime and 45 dBa at night. (Pl. Ex. 143; Duel testimony).

296. The CTF has had a recurring problem with leaks around windows. Sometimes even the walls themselves "sweat" water during rainstorms. (Pl. Exs. 159, 615).

297. CTF also has a pervasive problem with leaking plumbing fixtures. These leaks are often not repaired for a considerable period of time, leading to standing water, and sometimes leaking sewage, in the cells. (Pl. Ex. 638; Duel testimony).

298. One effect of the plumbing defects in the building is that water leaks through to lower floors and causes the ceilings of showers to fall out. (Pl. Exs. 147 (5/6/93 report), 154, 155, 158, 159, 615; Duel testimony).

299. Two women prisoners were injured in separate incidents when a shower ceiling collapsed on them. (Pl. Exs. 55, 147 (5/6/93 report), 159; Duel testimony).

300. Another plumbing defect is found in the toilets in the Behavior Management Unit, where women can be housed for disciplinary infractions. These toilets (which are located in each cell) must be flushed simultaneously or else they overflow, due to a lack of back siphonage devices. (Pl. Ex. 151).

301. The environmental health problems at the facility are exacerbated by the fact that the units do not have an adequate amount of cleaning supplies. (Pl. Exs. 430 (2/26/93 report), 617; Duel testimony; Jane Doe III Dep. Tr. at 63-69; Jane Doe IV Dep. Tr. at 62-63; Jane Doe V Dep. Tr. at 94-96; Jane Doe VI Dep. Tr. at 72-76; Jane Doe XI Dep. Tr. at 124-27).

302. Even though it is a new facility, CTF has also experienced an infestation of mice. (Pl. Exs. 146, 152, 156, 178, 182, 183, 184; McCathorine Dep. Tr. at 204-05; Duel testimony).

303. The temperature of the water for the handsinks and for the showers in the housing units at CTF is not hot -- ranging from the high 80's and low 90's. By comparison, the ACA recommends hot water temperatures between 100° and 120°. Lack of hot water means that personal hygiene is neglected and that the potential for transmission of disease is more likely. (Pl. Ex. 638; ACA 3-4134; Duel testimony).

304. Laundry procedures at CTF are not sanitary. Institutional laundry from CTF is transported to and from the laundry at the D.C. Jail in unlined canvas carts. Dirty laundry can be the source of illness pathogens which can survive and grow in unclean carts and then be transferred to clean laundry. (Pl. Ex. 638; Duel testimony).

305. Defendants are aware of the physical conditions at CTF and the risk to health and safety that these conditions pose. (Duel testimony; Pl. Ex. 148; Pl. Ex. 159)

306. The periodic safety and sanitation reports submitted to the Administrator of CTF in 1993 repeatedly show problems with plumbing and heating, including that toilet facilities in E Building were not clean and in good condition; that there was standing water in shower areas; that water was leaking from the ceiling and walls; that there was no heat; and that the air exchange vents were covered to preserve heat. (Pl. Ex. 148; Duel testimony).

307. Defendants are aware of the poor sanitary conditions on the women's units at CTF. The former Administrator of CTF noted that conditions on the women's unit "reflects poor supervision, poor housekeeping and no management of equipment and supplies." (Pl. Ex. 147 (5/6/93 report)). In February 1994, the Acting Director of the Women's Program was reassigned to return to her duties as Unit Manager "due to the chronic sanitation problems" experienced on the unit and "the overwhelming need for closer supervision of unit operations." (Pl. Ex. 461).

308. The food at CTF is prepared under unsanitary conditions. (Pl. Ex. 638; Duel testimony).

309. The sanitarian at CTF periodically inspects the main and satellite kitchens using a form adapted from the inspection form used by the District to determine compliance

of food service establishments with the District's laws and regulations. Under District law, a rating of 85% or less is prima facie evidence of failure to comply with the District's food regulations and can lead to revocation or suspension of a license. (23 DCMR §§ 2001.1, 2001.2).

310. Out of 41 self-inspection reports completed between February 1993 and November 1993, 34 of them showed compliance ratings below 85%. (Pl. Ex. 183; Duel testimony).

311. The food temperatures for the "hot" food served to prisoners with special medical diets is routinely in the danger zone that can allow micro-organisms to flourish and multiply in a very short time. (Pl. Ex. 638; Duel testimony).

312. Defendants are aware that the special diet meals are being served at these dangerous temperatures. (Pl. Exs. 405, 426 (6/30/93 report; 1/31/94 report); Duel testimony).

313. The environmental conditions suffered by the women prisoners housed at CTF pose a substantial risk of serious harm, including an increased risk of anxiety, depression, communicable diseases, and confrontations between inmates and with staff. (Pl. Ex. 159; Duel testimony).

314. Defendants are aware that the conditions at CTF pose a substantial risk of serious harm to the inmates. (Pl. Exs. 143, 159, 183, 405, 425, 426 (6/30/93 report; 1/31/94 report)).

VI. FIRE SAFETY

Lorton Minimum Security Annex

315. Women prisoners at the Annex face potentially fatal fire hazards both in their dormitories and on the main compound at Minimum. (Jaeger testimony).

316. The dormitory buildings are of combustible construction and have a high combustible load, in part because of the large number of occupants and the lack of adequate locker space for the women's personal belongings. Many people store their belongings in cardboard boxes or hang their clothes from the bunkbeds. In addition, Dormitory #7 has wood planking on the walls of the dormitories. (Jaeger testimony).

317. Both dormitories have storage areas with large amounts of flammable material, such as paper and cleaning supplies. A fire in these areas could spread quickly through the sleeping area of the dormitories. (Jaeger testimony).

318. No fire alarm systems are provided in the dormitory buildings. The so-called "fire alarm" in Dormitory #6 is little more than a doorbell. (Jaeger testimony).

319. The smoke detectors in the sleeping areas of the dormitory do not provide adequate fire detection. There are no smoke detectors in the areas where a fire is most likely to start, i.e., offices, storage rooms, and bathrooms. (Jaeger testimony).

320. Although the dining room and gymnasium at the main compound has a fire alarm system, it is inoperative due

to failure to maintain it properly and must be replaced. (Pl. Exs. 525, 532; Jaeger testimony).

321. On the day of the inspection by Plaintiffs' fire safety expert, the fire exit doors in the gymnasium were locked. Even after the officer unlocked them, the doors were jammed shut and could not be opened for several minutes. Such a delay could be fatal in case of fire. (Jaeger testimony).

322. Although some fire drills have been conducted at the Annex, the number and variation of the drills was inadequate. In two years, Defendants conducted only two drills. (Pl. Ex. 395; Jaeger testimony).

323. The Annex staff do not receive ongoing fire safety training and are not prepared to deal with a fire emergency. (Jaeger testimony).

324. The fire safety conditions at the Annex pose a substantial risk of serious injury to the women who live there. (Jaeger testimony).

325. The fire safety conditions at the Annex "should be made top priority, but they're merely ignored." (Pl. Ex. 403; Jaeger testimony).

326. Defendants are aware of the poor fire safety conditions at the Annex and the risk that they pose. (Pl. Ex. 334, 398, 403, 485, 525, 532; Jaeger testimony).

Correctional Treatment Facility

327. Although CTF has a state-of-the-art fire protection system, the facility does not test its equipment

regularly and thus cannot guarantee that it will actually operate in case of an emergency. (Jaeger testimony).

328. Moreover, until otherwise instructed by their own fire safety expert, Defendants did not allow officers on the housing units to carry keys to unlock the fire alarm pull stations on the units. Thus, in the event of a fire emergency, the staff could not use the alarm. (Jaeger testimony).

329. Water leakage from rain in the CTF buildings creates a severe hazard due to the exposure of electrical equipment. (Jaeger testimony).

330. Defendants have stored combustible material in the storage room so close to the ceiling that even if the sprinklers were to go off, they would not be effective because the reach of the water would be very limited. (Jaeger testimony).

331. The frequency and distribution of fire drills at CTF is inadequate and the operational procedures for responding to fire emergencies by staff are inadequate, so much so that staff has complained about the lack of fire drills. (Pl. Ex. 394; Jaeger testimony).

332. The fire safety conditions at the CTF pose a substantial risk of serious injury to the women who live there. (Jaeger testimony).

333. Defendants are aware of the fire safety conditions at the CTF and the risk that they pose. (Jaeger testimony).

June L. Green
U.S. District Judge

DATED: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of June, 1994,
I caused a copy of the foregoing Plaintiffs' Proposed Findings
of Fact, Conclusions of Law, and Proposed Order for
Declaratory and Injunctive Relief to be sent by first class
mail, postage pre-paid, to:

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