

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

WOMEN PRISONERS OF THE DISTRICT OF )  
COLUMBIA DEPARTMENT OF CORRECTIONS, )  
et al., )

Plaintiffs, )

v. )

DISTRICT OF COLUMBIA, )  
et al., )

Defendants. )

Civil Action  
No. 93-2052 JLG

**FILED**

MAY 17 1994

PLAINTIFFS' PRETRIAL STATEMENT

CLERK, U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

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Women Prisoners/DC v. DC



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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' PRETRIAL STATEMENT**

**INTRODUCTION**

Plaintiffs are the class of women prisoners housed in three facilities operated by the District of Columbia Department of Corrections (DCDC), the Correctional Treatment Facility (CTF), the Lorton Minimum Security Annex (Annex), and the Central Detention Facility (Jail). Women prisoners from CTF and the Annex have come before this Court because Defendants, the District of Columbia and named officials with responsibility for the District's prisons and prison population, have (1) provided them with programs, services, and opportunities that are inadequate and inferior as compared to those provided to male prisoners; (2) subjected them to a hostile environment characterized by pervasive sexual favoritism and harassment, and failed to protect them from

sexual assaults and coerced sexual conduct by correctional employees; (3) deprived them of adequate obstetrical and gynecological care at CTF; and (4) exposed them to unsafe and unsanitary living conditions. Women prisoners at the Jail are before this Court because Defendants have also subjected them to a hostile environment characterized by pervasive sexual harassment and misconduct.

At trial, Plaintiffs will offer the testimony of expert and fact witnesses and documentary evidence that support the allegations outlined above. Together, the factual evidence and legal authority will show that Defendants' actions and inactions have violated the Plaintiffs' rights under the United States Constitution, Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (1988), and the laws of the District of Columbia, and that the relief requested by Plaintiffs is necessary to remedy these violations.

**I. CONCISE STATEMENT OF FACTS**

A detailed description of the facts in this case is contained in Plaintiffs' Supplemental Response to Defendants' First Set of Interrogatories, attached to this statement as Exhibit A.

**A. Background Facts**

1. In the last decade, the number of women prisoners incarcerated in facilities operated by the DCDC has nearly tripled.

2. Since 1989, Defendants have housed women prisoners in the D.C. correctional system under a series of ad hoc arrangements.

3. For several years, Defendants failed to plan and prepare for the influx of women prisoners into the D.C. correctional system.

4. Even after Defendants formulated plans for the women prisoners in their care, they have failed to implement the majority of those plans.

**B. Inadequate and Inferior Programs**

1. The Defendants receive federal financial assistance.

2. Medium-custody female inmates are housed at CTF.

3. Medium-custody male inmates are housed at Medium Facility (low-medium), Central Facility (medium-medium), and Occoquan (high-medium) on the Lorton reservation.

4. Minimum-custody female inmates are housed at the Annex.

5. Minimum-custody male inmates are housed at the Minimum Security Facility.

6. Male inmates housed at CTF are special population inmates enrolled in the voluntary 18-month, pre-release substance abuse program or in the thirty- to sixty-day reception and diagnostic evaluation program.

Education

7. 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. For example, women are provided with part-time academic school rather than full-time school, and women have only an associate's degree program through a computer correspondence course rather than a bachelor's degree program with live, on-site instructors.

a. CTF is a controlled-movement facility that was designed to have all programming activities, including education, occur on the housing units due to the limited facility access to centralized areas.

b. Defendants provide little or no programming to general population women on the housing units.

c. Staffing inadequacies and escort problems at CTF limit women prisoners' access to centralized programs and contribute to the inadequacy and inferiority of educational programs.

8. Defendants provide women at the Annex with education programs that are inadequate and inferior as compared to those provided to male inmates at Minimum. For example, the academic school for women has been cancelled for several months at a time, and women are unable to attend the

full scheduled time of college classes due to the failure of Defendants to provide staff escorts.

Vocational Education

9. 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. For example, Defendants provide women at CTF with only one vocational education program and 3 skills courses, whereas Defendants provide men at Central with 13 vocational education programs.

a. Staffing inadequacies and escort problems at CTF limit women prisoners' access to programs and contribute to the inadequacy and inferiority in vocational educational programs.

10. Defendants provide the women at the Annex with vocational education programs that are inadequate and inferior as compared to those available to men at Minimum.

a. Women at the Annex have one short vocational program in graphic arts available to only 5-7 individuals.

b. Men at Minimum are able to develop their vocational skills by working on trade-related details that build on the vocational education these men gain at other medium security facilities prior to coming to Minimum.

Work Opportunities

11. Defendants provide women at CTF with work details that are inadequate and inferior as compared to those provided to male inmates at Central, Medium, and Occoquan. Women do not work on the trade-related details available to men such as plumbing, carpentry, and electrical.

12. Defendants provide women at the Annex with work details that are inadequate and inferior as compared to those provided to male inmates at Minimum. Women do not work on many of the details available to men such as farm, dairy, plumbing, carpentry, electrical, and auto mechanics.

13. 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.

a. Defendants provide no industries for women at CTF.

b. Defendants provide men at Central with 11 different industrial work opportunities.

14. Women at the Annex are denied equal access to the full range of industrial opportunities at Central based on their gender. Women work in 2 industries, whereas the men are employed in 11 different industries.

15. 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. Only 3 women were approved for work training in all of 1993, whereas an average of 50-60 men from Minimum are employed in work training programs at any one time.

Religious Programs

16. Defendants provide women at the Annex with religious programs that are inadequate and inferior as compared to those provided to male inmates at Minimum. Women do not have full-time access to a chaplain, and they are not provided with the same range of religious study programs, services, and group events as men.

Recreation

17. Defendants provide the women at CTF with recreation activities that are inadequate and inferior as compared to male inmates at Central, Medium, and Occoquan.

a. Women's recreation is limited to one hour outside, five days per week. Women can access the gym 2 nights per week for 2 hours.

b. Men at Central, Medium, and Occoquan have access to the outdoors virtually all day from dawn to dusk. Men can access the gym for approximately 3 hours per day, at least 5 days per week.

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

18. Defendants provide women at the Annex with recreation activities that are not comparable to those provided to male inmates at Minimum. Women are limited to using the men's gym and field only 4 hours each week, and the women's recreation trailer is open only for limited hours five days a week that conflict with scheduled program and work times.

Smoking

19. 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. Women are not permit to smoke at all. Men are permitted to smoke outside, where they can access for most of the day, or in some indoor designated areas.

\* \* \*

20. Defendants' have displayed indifference, bias, and stereotypical notions of women in creating unequal programs for women prisoners.

C. Sexual Misconduct

1. Women residents are subjected to inappropriate verbal sexual comments, advances and propositions in every aspect of their incarceration, including on work details, in industries, in programming areas, in housing units, and during escorts within CTF and transport outside of both facilities.

2. Defendants' employees engage in, encourage, and allow inappropriate sexual behaviors with the women residents

and force or coerce women residents into having sexual contacts and do not protect the women from such sexual contact.

a. Employees allow women on housing units to be inappropriately attired in the presence of male employees.

b. Employees encourage or coerce women residents to "flash" or to expose their bodies to employees.

c. Employees expose their bodies to women residents.

d. Employees touch the women residents in an inappropriate and unwelcomed sexual manner.

e. Employees initiate and/or engage in sexual activity with women residents.

f. Employees allow women residents to have sexual relations with other residents.

g. Employees coerce women residents into having sexual contacts in exchange for goods and favors, including cigarettes, money, candy, food, and preferential treatment.

h. Employees use physical force and threats of physical force to make women engage in sexual activity.

i. Employees coerce women into engaging in sexual activity through the use of threats, including threats of escape reports and disciplinary reports.

3. Defendants fail to prevent the invasion of women residents' privacy.

4. Defendants know or should know of these incidents of sexual harassment and sexual misconduct.

5. Defendants fail to adequately investigate reports of sexual misconduct and fail to take appropriate action against employees who are accused of sexual misconduct.

6. Defendants fail to prevent sexual harassment and misconduct by failing to properly train and counsel DCDC employees and by maintaining an environment where sexual harassment and misconduct are condoned and tolerated.

7. Defendants know or should know that incarcerated women as a population generally have low self esteem and a high incidence of depression, and that many women residents have experienced rape, sexual assault, or sexual abuse prior to being incarcerated. Defendants know or should know that because of the women's past trauma, the women are reluctant to report sexual misconduct during incarceration.

8. Defendants know or should know that the sexualized environment at the facilities and the sexual contact between employees and residents causes women to experience psychological injury and emotional pain and distress and prevents their rehabilitation.

D. Medical Care

1. Defendants do not provide adequate gynecological examination and testing.

2. Defendants do not provide adequate monitoring and follow-up of gynecological conditions.

3. Defendants do not provide women prisoners with adequate education regarding sexually-transmitted diseases and other gynecological conditions.

4. Defendants do not have a protocol for gynecological care for women who are HIV positive.

5. Defendants do not provide an adequate transportation system for ensuring that women prisoners at CTF are able to keep their medical appointments.

6. Defendants do not provide adequate prenatal care.

a. Defendants do not have an adequate prenatal protocol at CTF.

b. Defendants do not provide all pregnant women with adequate nutrition, and do not provide required vitamins and iron tablets in a timely manner.

c. Defendants do not provide all pregnant women with regular prenatal check-ups.

d. Defendants fail to inform all pregnant women of the existence of the prenatal education classes that are available, when they are available.

e. Defendants have offered virtually no prenatal exercises classes since the opening of CTF in May 1992.

f. Defendants fail to provide an adequate transportation system for ensuring that women are able to keep their prenatal appointments at D.C. General Hospital.

7. Defendants do not provide adequate counseling to pregnant women regarding child care arrangements.

a. Defendants do not provide pregnant women with timely counseling to enable them to make appropriate child care arrangements.

b. The counseling and assistance that Defendants offer do not encourage women to consider a variety of child care arrangements, but instead, strongly encourages them to give up their babies for adoption.

8. Defendants do not provide women prisoners with adequate post-partum medical care.

9. Defendants do not provide women prisoners with adequate post-partum counseling.

10. Defendants do not provide adequate opportunities for mothers to visit their babies who are boarding at D.C. General Hospital and there is no written policy regarding such visitation.

11. Defendants have failed to maintain effective coordination and communication with D.C. General Hospital in

order to provide adequate medical care and social services to women prisoners at CTF.

12. Defendants are aware that no effective communication and coordination exists between D.C. General Hospital and DCDC and that this problem adversely affects women prisoners' medical care.

13. 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.

14. Defendants' failure to provide adequate gynecological and obstetrical care precludes prevention, early identification, treatment, and monitoring of gynecological conditions; 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. Defendants' failure to provide adequate gynecological and obstetrical care also causes women prisoners unnecessary physical and psychological stress and pain.

**E. Conditions of Confinement**

**Lorton Minimum Security Annex**

1. The dormitories that house the women prisoners at the Annex are overcrowded and, as a consequence, are also poorly ventilated, poorly lit and excessively noisy.

2. The dormitories of the Annex are poorly maintained, including:

a. The dormitories are infested with cockroaches;

b. The roof leaks -- in one instance, directly onto an electrical box;

c. Mattresses and pillows are torn;

d. The hot water frequently runs out;

3. The grounds of the Annex are poorly maintained. Dumpsters are overfilled and uncovered. The drainage system is so poor that the women are almost ankle deep in mud whenever it rains.

4. Women prisoners housed at Lorton are deprived of adequate access to sanitary and restroom facilities in the dormitories, in the industries, and in the trailers that house their programs.

5. The food at the Lorton Minimum Security Facility is prepared under unsanitary conditions, and the kitchen is infested with vermin.

6. Women prisoners who work at the prison industries eat under unsanitary and unsafe conditions.

7. The environmental conditions suffered by the women prisoners housed at the Annex lead to an increase in anxiety, depression, communicable diseases, and confrontations between inmates and with staff.

8. Women prisoners at the Annex face potentially fatal fire hazards both in their dormitories and on the main compound at Minimum. These hazards include the following:

- a. No fire alarm systems are provided in the dormitory buildings;
- b. Inadequate fire detection systems are provided in the dormitory buildings;
- c. The dormitory buildings are of combustible construction;
- d. A high combustible load exists within the dormitory buildings;
- e. Storage areas within the dormitory buildings are inadequately protected;
- f. Interior finishes of wood paneling in the dormitory buildings result in a severe fire hazard to the occupants;
- g. The fire alarm system in the dining room and gymnasium is inoperative;
- h. Fire exit doors in the gymnasium are inoperative;
- i. Fire drills are inadequate; and

j. Operational procedures for response to fire emergencies by staff are inadequate.

9. Due to the grossly inadequate level of fire safety, women prisoners at the Annex are at risk of loss of life and property.

10. Defendants are aware of the environmental and fire safety conditions at the Annex and their adverse effect on the women prisoners housed there.

CTF

11. Women prisoners housed at CTF are subjected to bitterly cold temperatures and leaking walls and ceilings due to construction defects in the CTF building, including a grossly deficient heating and air handling system. Because of these deficiencies, CTF's ventilation system has been shut off to preserve heat and as a result, no fresh air is circulated inside the building.

12. The living conditions at CTF are unsanitary and unhealthy, and include the following deficiencies:

- a. lack of adequate hot water;
- b. excessive noise;
- c. presence of mice;
- d. unsanitary laundry procedures; and
- e. lack of adequate cleaning supplies to maintain a sanitary environment.

13. The food at CTF is prepared under unsanitary conditions. In particular, the food temperatures for the

"hot" food served to prisoners with special diets is dangerously low.

14. The environmental conditions suffered by women prisoners housed at CTF leads to an increase in respiratory infections, colds, flu and other communicable diseases.

15. CTF provides an inadequate level of fire safety due to the following:

- a. The frequency and distribution of fire drills is inadequate;
- b. Operational procedures for responding to fire emergencies by staff are inadequate;
- c. There is inadequate testing of the fire protection systems;
- d. The fire alarm system cannot be used by staff;
- e. Water leakage from rain creates a severe hazard due to the exposure of electrical equipment to rain water; and
- f. Improper storage of combustibles in the culinary area.

16. Due to the inadequate level of fire safety, women prisoners at CTF are at risk of loss of life and property.

17. Defendants are aware of the environmental and fire safety conditions at CTF and their adverse effect on the women prisoners housed there.

\* \* \*

Plaintiffs understand that Defendants dispute each of these asserted facts.

## II. LEGAL CLAIMS

### A. Inadequate and Inferior Programs

1. The programs and services provided to women at the Jail are not being challenged in this case as they are subject to the orders and decrees in Campbell v. McGruder, No. 1462-71 (D.D.C.).

2. A female inmate is "similarly situated" for purposes of constitutional equal protection and Title IX analyses to a male inmate who has a comparable custody level, sentence structure, and classification status. See Klinger v. Nebraska Dep't of Correctional Servs., 824 F. Supp. 1374, 1431-34 (D. Neb. 1993); McCoy v. Nevada Dep't of Prisons, 776 F. Supp. 521, 533 (D. Nev. 1991); Canterino v. Wilson, 546 F. Supp. 174, 206 (W.D. Ky. 1982), rev'd in part on other grounds, 869 F.2d 948 (6th Cir. 1989); Glover v. Johnson, 478 F. Supp. 1075 (E.D. Mich. 1979). See also Wishon v. Gammon, 978 F.2d 446 (8th Cir. 1992) (lockdown inmates not similarly situated to general population inmates for education and vocation programs); Divers v. Department of Corrections, 921 F.2d 191 (8th Cir. 1990) (protective custody inmates similarly situated to other protective custody inmates).

3. Defendants' provision of unequal programs and opportunities to women prisoners on the basis of a facial, sex-based classification of segregating prisoners, demonstrates intent to discriminate as a matter of law under both the equal protection and Title IX analyses. Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 724-26 (1982); Personnel Adm'r of Massachusetts v. Feeney, 442 U.S. 256, 274 (1979); Pitts v. Thornburgh, 866 F.2d 1450, 1453-55 (D.C. Cir. 1989); Canterino v. Barber, 564 F. Supp. 711, 714 (W.D. Ky. 1983) (Title IX); Favia v. Indiana University of Penn., 812 F. Supp. 578, 584 (W.D. Pa. 1987) (Title IX).

4. The lack of parity in programs and opportunities available to women prisoners as compared to similarly situated male prisoners, in the areas of education, vocational education, work, religion, and recreation, is not substantially related to an important governmental interest and reflects invidious discrimination that violates the equal protection component of the Fifth Amendment to the United States Constitution and 42 U.S.C. § 1983. See Pitts v. Thornburgh, 866 F.2d 1450, 1451, 1461-63 (D.C. Cir. 1989); Klinger v. Nebraska Dep't of Correctional Servs., 824 F. Supp. 1374, 1431-34 (D. Neb. 1993); McCoy v. Nevada Dep't of Prisons, 776 F. Supp. 521, 533 (D. Nev. 1991); Glover v. Johnson, 478 F. Supp. 1075 (E.D. Mich. 1979); see also Bolling v. Sharpe, 347 U.S. 497 (1954) (equal protection component of

the Fifth Amendment provides same guarantee of protection as the Equal Protection Clause of the Fourteenth Amendment).

5. Defendants' inferior treatment of women prisoners in education and vocational education programs violates Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (1988). Beehler v. Jeffes, 664 F. Supp. 931 (M.D. Pa. 1986), aff'd without opinion, 989 F.2d 486 (3d. Cir. 1993); Klinger v. Nebraska Dep't of Correctional Servs., 824 F. Supp. 1374, 1431-34 (D. Neb. 1993); Canterino v. Wilson, 546 F. Supp. 174, 210 (W.D. Ky. 1982), rev'd in part on other grounds, 869 F.2d 948 (6th Cir. 1989).

**B. Sexual Misconduct**

1. Defendants' failure to prevent sexual harassment, sexual misconduct and invasions of personal privacy involving women prisoners, and Defendants' knowledge that a high probability of severe psychological injury and emotional pain and suffering exists for women who are subjected to such misconduct, constitute unnecessary and wanton infliction of pain in violation of the Eighth Amendment. Hudson v. McMillian, 112 S. Ct. 995, 998 (1992); Jordan v. Gardner, 986 F.2d 1521, 1526 (9th Cir. 1993) (en banc).

2. Defendants' failure to prevent and remedy the sexual harassment, sexual misconduct and invasions of personal privacy involving sentenced inmates constitutes cruel and unusual punishment in violation of the Eighth Amendment.

Wilson v. Seiter, 501 U.S. 294 (1991); Hovater v. Robinson, 1 F.3d 1063 (10th Cir. 1993); McKenzie v. Wisconsin Dep't of Corrections, 138 F.R.D. 554 (E.D. Wis. 1991); Fair v. Brown, No. K85-535, 1990 U.S. Dist. LEXIS 13428 (W.D. Mich. 1990); Garnett v. Kepner, 541 F. Supp. 241 (M.D. Pa. 1982); Battle v. Seago, 431 S.E.2d 148 (Ga. Ct. App. 1993).

3. Defendants' failure to prevent and remedy the sexual harassment, sexual misconduct and invasions of personal privacy involving female pretrial detainees violates the Due Process Clause of the Fifth Amendment. Bell v. Wolfish, 441 U.S. 520 (1979).

4. Defendants' failure to prevent and remedy the sexual harassment, sexual misconduct and invasions of personal privacy involving both female sentenced inmates and pretrial detainees violates the Plaintiffs' constitutional right to bodily privacy. Fortner v. Thomas, 983 F.2d 1024 (11th Cir. 1993); Lee v. Downs, 641 F.2d 1117 (4th Cir. 1981); Forts v. Ward, 621 F.2d 1210 (2nd Cir. 1980); Bowling v. Enomato, 514 F. Supp. 201 (N.D. Cal. 1981); Dawson v. Kendrick, 527 F. Supp. 1252 (S.D. W. Va. 1981).

5. Defendants' failure to prevent and remedy the sexual harassment, sexual misconduct and invasions of personal privacy of both sentenced inmates and pretrial detainees violates the equal protection component of the Due Process Clause of the Fifth Amendment as applied to Defendants by 42 U.S.C. § 1983. See Bolling v. Sharpe, 347 U.S. 497 (1954);

Pontarelli v. Stone, 930 F.2d 104 (1st Cir. 1991); King v. Board of Regents of Univ. of Wisconsin Sys., 898 F.2d 533 (7th Cir. 1990); Starrett v. Wadley, 876 F.2d 808 (10th Cir. 1989); Poe v. Haydon, 853 F.2d 418 (6th Cir. 1988), cert. denied, 488 U.S. 1007 (1989); Headley v. Bacon, 828 F.2d 1272 (8th Cir. 1987); Bohen v. City of East Chicago, Ind., 799 F.2d 1180 (7th Cir. 1986); Poulsen v. City of North Tonawanda, N.Y., 811 F. Supp. 884 (W.D.N.Y. 1993); Murphy v. Chicago Transit Auth., 638 F. Supp. 464 (N.D. Ill. 1986).

**C. Medical Care**

1. The adequacy of the obstetrical and gynecological care of women at the Annex and the Jail are not being challenged in this action because medical care in those facilities falls within the purview of Inmates of Three Lorton Facilities v. District of Columbia, No. 92-1208 (D.D.C.) and Campbell v. McGruder, No. 1462-71 (D.D.C.), respectively.

2. The U.S. Constitution prohibits Defendants from maintaining a system of medical care characterized by deliberate indifference to Plaintiffs' serious medical needs. Estelle v. Gamble, 429 U.S. 97, 103 (1976); Monmouth County Correctional Institutional Inmates v. Lanzaro, 834 F.2d 326, 350 (3d Cir. 1987), cert. denied, 486 U.S. 1006 (1988); Wellman v. Faulkner, 715 F.2d 269, 271 (7th Cir. 1983), cert. denied, 468 U.S. 1217 (1984); Ramos v. Lamm, 639 F.2d 559, 574 (10th Cir. 1980), cert. denied, 450 U.S. 1041 (1981); Todayaro

v. Ward, 431 F. Supp. 1129, 1132 (S.D.N.Y.), aff'd, 565 F.2d 48, 52 (2d Cir. 1977).

3. Adequate gynecological and obstetrical care is a serious medical need of women. See Monmouth County Correctional Institutional Inmates v. Lanzaro, 834 F.2d 326, 348 (3d Cir. 1987), cert. denied, 486 U.S. 1006 (1988); Archer v. Dutcher, 733 F.2d 14, 16 (2d Cir. 1984); Todaro v. Ward, 431 F. Supp. 1129 (S.D.N.Y.), aff'd, 565 F.2d 48, 52 (2d Cir. 1977).

4. There are systematic and gross deficiencies in the procedures which Defendants use to provide medical care to women prisoners, procedures which effectively cause delay or denial of access to adequate medical care. See Ramos v. Lamm, 639 F.2d 559, 577 (10th Cir. 1980), cert. denied, 450 U.S. 1041 (1981); Kaminsky v. Rosenblum, 929 F.2d 922, 926 (2d Cir. 1991); Wellman v. Faulkner, 715 F.2d 269, 272 (7th Cir. 1983), cert. denied, 468 U.S. 1217 (1984).

5. Defendants have failed to carry out prescribed medical treatment, depriving women prisoners at CTF of adequate medical care. See Johnson v. Hay, 931 F.2d 456, 461 (8th Cir. 1991); Boretti v. Wiscomb, 930 F.2d 1150, 1154 (6th Cir. 1991).

6. Defendants have been deliberately indifferent to the serious medical needs of women prisoners at CTF, and thus have violated the Eighth Amendment. See Wilson v. Seiter, 501 U.S. 294 (1991); Estelle v. Gamble, 429 U.S. 97,

103 (1976); Eades v. Thompson, 823 F.2d 1055, 1060-61 (7th Cir. 1987); Duncan v. Duckworth, 644 F.2d 653, 654 (7th Cir. 1981); Todaro v. Ward, 565 F.2d 48 (2d Cir. 1977).

7. By placing women at greater risk of developing gynecological diseases and complications during pregnancy, and by placing their unborn children at greater risk of infant deformity or mortality, Defendants have violated the Eighth Amendment. Helling v. McKinney, 113 S.Ct. 2475 (1993).

**D. Conditions of Confinement**

1. Defendants have been deliberately indifferent to the conditions of confinement of the women prisoners who are housed at the Annex and at CTF. Wilson v. Seiter, 501 U.S. 294 (1991); Murphy v. United States, 653 F.2d 637 (D.C. Cir. 1981).

2. Conditions of confinement that rise beyond mere discomfort and threaten the mental and physical well-being of prisoners are cruel and unusual punishment under the Eighth Amendment to the United States Constitution. Hudson v. McMillian, 112 S. Ct. 995, 998 (1992); Rhodes v. Chapman, 452 U.S. 337, 347 (1981); Ramos v. Lamm, 639 F.2d 559, 566 (10th Cir. 1980), cert. denied, 450 U.S. 1041 (1981); Campbell v. McGruder, 580 F.2d 521, 534 (D.C. Cir. 1978); Inmates of Occoquan v. Barry, 717 F. Supp. 854, 867 (D.D.C. 1989).

3. Defendants have violated the Eighth Amendment by subjecting the women prisoners to overcrowding that has led to an increase in stress, tension, communicable diseases, and

inappropriate behavior between inmates. Akao v. Shimoda, 832 F.2d 119, 120 (9th Cir. 1987), cert. denied, 485 U.S. 993 (1988); Toussaint v. Yockey, 722 F.2d 1490, 1492 (9th Cir. 1984).

4. Defendants have violated the Eighth Amendment by failing to protect the women prisoners from excessively cold or hot temperatures and by failing to provide adequate ventilation and insulation. Wilson v. Seiter, 501 U.S. 294 (1991); French v. Owens, 777 F.2d 1250, 1255 (7th Cir. 1985), cert. denied, 479 U.S. 817 (1986); Madison County Jail Inmates v. Thompson, 773 F.2d 834, 838-39 (7th Cir. 1985); Hoptowit v. Spellman, 753 F.2d 779, 784 (9th Cir. 1985); Ramos v. Lamm, 639 F.2d 559, 566 (10th Cir. 1980), cert. denied, 450 U.S. 1041 (1981); Hutchings v. Corum, 501 F. Supp. 1276, 1282 (W.D. Mo. 1980).

5. Defendants have violated the Eighth Amendment by failing to protect women prisoners from unhealthy conditions, including by failing to provide proper plumbing, adequate hot water, adequate lighting, and adequate cleaning supplies, and by failing to follow sanitary laundry procedures. French v. Owens, 777 F.2d 1250, 1252 (7th Cir. 1985), cert. denied, 479 U.S. 817 (1986); Madison County Jail Inmates v. Thompson, 773 F.2d 834, 838-39 (7th Cir. 1985); Hoptowit v. Spellman, 753 F.2d 779, 783-84 (9th Cir. 1985); Ramos v. Lamm, 639 F.2d 559, 569-70 (10th Cir. 1980), cert.

denied, 450 U.S. 1041 (1981); Hite v. Leeke, 564 F.2d 670, 672 (4th Cir. 1977).

6. These conditions have a mutually enforcing effect of depriving women prisoners of the minimal civilized measure of life's necessities. Wilson v. Seiter, 501 U.S. 294 (1991); Rhodes v. Chapman, 452 U.S. 337, 347 (1981); Doe v. District of Columbia, 701 F.2d 948, 961 (D.C. Cir. 1983); Inmates of Occoquan v. Barry, 844 F.2d 828, 836-37 (D.C. Cir. 1988).

7. Defendants have violated the Eighth Amendment by failing to provide food that has been prepared under safe and sanitary conditions. French v. Owens, 777 F.2d 1250, 1255 (7th Cir. 1985), cert. denied, 479 U.S. 817 (1986); Madison County Jail Inmates v. Thompson, 773 F.2d 834, 838-39 (7th Cir. 1985); Ramos v. Lamm, 639 F.2d 559, 571 (10th Cir. 1980), cert. denied., 450 U.S. 1041 (1981); Lightfoot v. Walker, 486 F. Supp. 504, 524 (S.D. Ill. 1980).

8. The presence of vermin is evidence of a failure to maintain facilities in a constitutionally adequate manner. Hoptowit v. Spellman, 753 F.2d 779, 784 (9th Cir. 1985); Wellman v. Faulkner, 715 F.2d 269, 274 (7th Cir. 1983), cert. denied, 468 U.S. 1217 (1984).

9. Defendants have violated the Eighth Amendment by failing routinely to provide opportunities for outdoor exercise and fresh air to prisoners who are incarcerated for lengthy periods of time. Toussaint v. Yockey, 722 F.2d 1490

(9th Cir. 1984); Spain v. Procunier, 600 F.2d 189, 199-200 (9th Cir. 1979); Miller v. Carson, 563 F.2d 741, 749-51 (5th Cir. 1977).

10. Defendants have violated the Eighth Amendment by failing to provide an adequate level of fire safety. Hoptowit v. Spellman, 753 F.2d 779, 783 (9th Cir. 1985); Santana v. Callazo, 714 F.2d 1172, 1183 (1st Cir. 1983), cert. denied, 466 U.S. 974 (1984); Leeds v. Watson, 630 F.2d 674, 675 (9th Cir. 1980); Hutchings v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1980).

11. Prisoners have the right not to be subjected to the unreasonable threat of injury or death by fire and need not wait until actual casualties occur in order to obtain relief. Inmates of Occoquan v. Barry, 717 F. Supp. 854, 867 (D.D.C. 1989).

**E. Violations of 42 U.S.C. § 1983**

1. Defendant District of Columbia and its agencies are liable to the class of women prisoners under 42 U.S.C. § 1983 because its policies or customs have deprived them of rights secured by the U.S. Constitution and federal laws. Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978); Morgan v. District of Columbia, 824 F.2d 1049, 1058 (D.C. Cir. 1987).

2. The policies or customs that have led to the constitutional harm include the Defendants' "actual practice" and not necessarily what is found in the District's laws and regulations. LaShawn A. v. Dixon, 762 F. Supp. 959, 990

(D.D.C. 1991), aff'd in part, rev'd in part, 990 F.2d 1319 (D.C. Cir. 1993), cert. denied, 114 S. Ct. 691 (1994); Parker v. District of Columbia, 850 F.2d 708, 714 (D.C. Cir. 1988), cert. denied, 489 U.S. 1065 (1989); Haynesworth v. Miller, 820 F.2d 1245, 1248 & n.1 (D.C. Cir. 1987).

3. Defendants' deliberate indifference towards women prisoners, including the failure to train its employees on proper treatment of women prisoners, constitutes a policy or custom that is actionable under 42 U.S.C. § 1983. Canton v. Harris, 489 U.S. 378, 389 (1989); Parker v. District of Columbia, 850 F.2d 708, 714 (D.C. Cir. 1988), cert. denied, 489 U.S. 1065 (1989); ; Morgan v. District of Columbia, 824 F.2d 1049, 1058 (D.C. Cir. 1987).

**F. Violations of D.C. Code**

1. The constitutional and statutory violations enumerated above, regarding programs, sexual harassment and misconduct, medical care, and conditions of confinement to which women prisoners are subjected, constitute violations of D.C. Code § 24-442 which requires Defendants to be responsible for the safekeeping, care, protection, instruction, and discipline of all persons committed to its correctional institutions. John Doe v. District of Columbia, 697 F.2d 1115 (D.C. Cir. 1983); District of Columbia v. Mitchell, 533 A.2d 629 (D.C. App. 1987).

2. Defendants have failed to house women prisoners in appropriate facilities in violation of D.C. Code § 24-425.

Twelve John Does v. District of Columbia, 841 F.2d 1133 (D.C. Cir. 1988); Pitts v. Meese, 684 F. Supp. 303 (D.D.C. 1987), aff'd, 866 F.2d 1450 (D.C. Cir. 1989); Morgan v. District of Columbia, 618 F. Supp. 754 (D.D.C. 1985).

3. This Court has pendent jurisdiction to consider the state law claims. See John Doe v. District of Columbia, 697 F.2d 1115 (D.C. Cir. 1983).

\* \* \*

A full explication of the application of the relevant case law to the facts of this case will be submitted to the Court in the Plaintiffs' brief filed in conjunction with the Findings of Fact and Conclusions of Law to be filed with the Court on June 9, 1994.

### **III. LIST OF WITNESSES**

Plaintiffs expect to call the witnesses listed below to testify at trial. A brief summary of the direct testimony that Plaintiffs expect to elicit is provided.

1. Jane Doe II is an inmate of CTF. She is expected to testify concerning medical care, programs and opportunities, and general living conditions.

2. Jane Doe III is an inmate of CTF. She is expected to testify concerning programs and opportunities, smoking, and sexual misconduct.

3. Jane Doe IV is an inmate of CTF. She is expected to testify concerning programs and opportunities and sexual misconduct.

4. Jane Doe V is an inmate at CTF. She is expected to testify concerning sexual misconduct, programs and opportunities, and general living conditions.

5. Jane Doe VI is an inmate at CTF. She is expected to testify concerning programs and opportunities and general living conditions.

6. Jane Doe VII is an inmate at the Annex. She is expected to testify concerning programs and opportunities and sexual misconduct.

7. Jane Doe VIII is a former inmate of the Annex who was recently released. She is expected to testify concerning programs and opportunities.

8. Jane Doe IX is an inmate at the Annex. She is expected to testify concerning programs and opportunities, sexual misconduct and living conditions.

9. Jane Doe XI is an inmate at the Annex and a former inmate at CTF. She is expected to testify concerning programs and opportunities and general living conditions.

10. Jane Doe XII is a former inmate at CTF who was recently released. She is expected to testify concerning sexual misconduct and programs and opportunities.

11. Jane Doe A is an inmate at the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

12. Jane Doe B is an inmate at the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

13. Jane Doe K is an inmate at the Jail. She is expected to testify concerning sexual misconduct, programs and opportunities, and general living conditions.

14. Jane Doe L is an inmate at the Annex. She is expected to testify concerning programs and opportunities, and medical care at CTF.

15. Jane Doe P is an inmate at the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

16. Jane Doe Q is a former inmate at the Jail, who was recently released. She is expected to testify concerning sexual misconduct and programs and opportunities.

17. Jane Doe W is an inmate at CTF. She is expected to testify concerning sexual misconduct.

18. Jane Doe Z is a former inmate of the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

19. Jane Doe CC is an inmate at CTF. She is expected to testify concerning sexual misconduct and programs and opportunities.

20. Jane Doe FF is an inmate at CTF. She is expected to testify on sexual misconduct, programs and opportunities, and living conditions.

21. Jane Doe OO is an inmate at CTF and a former inmate at the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

22. Jane Doe PP is a resident of Community Correctional Center #2, 1825 13th Street NW, Washington, DC and is a former inmate of the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

23. Jane Doe RR is an inmate at the Annex. She is expected to testify concerning sexual misconduct and programs and opportunities.

24. Jane Doe EEE is a former inmate of CTF who was recently released. She is expected to testify concerning sexual misconduct, programs and opportunities, and general living conditions.

25. Jane Doe QQQ is an inmate at CTF. She is expected to testify concerning medical care and general living conditions.

26. Robert Mallon, Atlantic Union College, 338 Main Street, Lancaster, MA 01561. He is expected to testify concerning the Atlantic Union College program for women at CTF.

**IV. EXPERT WITNESSES**

**A. Ward Duel**, Compliance Consultants, Inc., McHenry, IL. Mr. Duel has a B.S. in Food Technology from the University of Wisconsin (Madison) and an M.P.H. from the University of California (Berkeley). He is a registered sanitarian and is a commissioned officer of the U.S. Public Health Service.

Mr. Duel has served as the in-house consultant on environmental health and public health for the American Medical Association Task Force for the development of jail standards. As an environmental health consultant, Mr. Duel has inspected correctional facilities in 33 states and has testified in court over 25 times. In several cases, Mr. Duel has been appointed by the court to be a monitor or a member of a monitoring team. He has lectured extensively and is the author of numerous monographs, manuals, and journal articles in the field of environmental health.

Mr. Duel has prepared environmental health reports based on his site visit of both the Annex and CTF, and is expected to testify on the substance of those reports and as detailed in the statement filed pursuant to Fed. R. Civ. P. 26(b)(4) with this Court on April 11, 1994.

**B. Dr. Susan Fiester**, M.D., Medical Director, Psychiatric Institute of Washington, D.C. Dr. Fiester is a psychiatrist with extensive experience in the area of sexual abuse.

Dr. Fiester is an expert in all aspects of sexual misconduct. Dr. Fiester has served as an expert in over 20 civil and criminal cases, with special expertise in the area of rape, sexual abuse, and domestic violence. Dr. Fiester has worked as a consultant for the Court Consultation Clinic at the Yale School of Medicine, and in that capacity has performed hundreds of competency evaluations on female inmates incarcerated in Connecticut.

Dr. Fiester is also an expert in nicotine addiction. Dr. Fiester has written several abstracts concerning nicotine addiction and has given numerous presentations on nicotine addiction.

Dr. Fiester is expected to testify on the issues of sexual misconduct and nicotine addiction as detailed in the statement filed pursuant to Fed. R. Civ. P. 26(b)(4)(A)(i) on March 7, 1994.

**C. Thomas Jaeger**, Gage-Babcock & Associates, Inc., Fairfax, Virginia. Mr. Jaeger is a professional engineer who has been working in the field of fire safety for 27 years. He is president of a multinational consulting engineering firm that specializes in fire protection.

Mr. Jaeger has been a consultant or expert with respect to many correctional and detention facilities nationwide. He was the project manager for fire safety surveys of twelve prisons operated by the federal Bureau of Prisons. He is a charter member of the Subcommittee on Detention and

Correctional Occupancies for the National Fire Protection Association. He has lectured and written extensively in the area of fire safety.

Mr. Jaeger is expected to testify on the issues of fire safety at both the Annex and the CTF as detailed in the statement filed pursuant to Fed. R. Civ. P. 26(b)(4) on April 13, 1994, except that Mr. Jaeger does not intend to testify that the fire alarm system at CTF is frequently inoperative.

**D. Jenniè Lancaster**, Female Command Manager, North Carolina Division of Prisons. Ms. Lancaster has B.A. degree in Religion. She has 22 years experience working in corrections and 15 years of experience working with female offenders.

Ms. Lancaster is an expert in all areas of corrections, including management, conditions, staffing, facility construction, programming, and specifically in the area of female offenders. She has been a consultant with the National Institute of Corrections to numerous states on issues concerning female offenders, including issues of sexual misconduct.

Ms. Lancaster is expected to testify on the issues of inadequate and inferior programming and opportunities for women at CTF and the Annex. In addition, she is expected to testify on organizational procedures for investigating and minimizing incidents of sexual misconduct, as detailed in the

statement filed pursuant to Fed. R. Civ. P. 26(b)(4) on April 11, 1994.

**E. Dr. Benjamin Major, M.D., M.P.H.** (Maternal Child Health/Family Planning), Senior Physician, Sacramento County Health Department (Forensics) and Private Contractor and Consultant to Planned Parenthood of Alameda County/San Francisco, California and Shasta/Diablo, California, and to Pregnancy Consultation Center, Sacramento, California.

Dr. Major has over thirty years of experience as a board certified OB/GYN physician. During the past four years he has provided medical care to women incarcerated at the Sacramento County Jail. He has also served as an expert in obstetrical and gynecological care in two prison class action cases in the state of California. Dr. Major currently serves on the board of directors of Legal Services for Prisoners with Children. He is also a member of the American Correctional Health Association and the American College of Obstetrics and Gynecology.

Dr. Major is expected to testify regarding obstetrical and gynecological care provided to women at CTF as detailed in the statement filed pursuant to Fed. R. Civ. P. 26(b)(4) on April 15, 1994.

V. EXHIBIT LIST

A list of Plaintiffs' proposed exhibits is included as Exhibit B to this pretrial statement.<sup>1/</sup>

On May 13, 1994, Plaintiffs submitted a draft copy of this exhibit list to Counsel for Defendants for the purpose of reaching an agreement between the parties as to which exhibits would be stipulated to as admissible at trial. See Letter, Exhibit C. Counsel responded that due to the time constraints and the different organization of the parties' documents (i.e. Plaintiffs' Bates-stamped the documents after they were received unstamped from Defendants) she was unable to go through each exhibit on the list and check whether or not she stipulated or objected.

Counsel for Defendants has represented that she does not anticipate objecting to the authenticity of any documents produced by the Defendants. She may have objections to the authenticity of some of the documents produced by Plaintiffs (indicated by a WP Bates-stamp number or no number at all and listed on pages 58-64 of the exhibit list).

Counsel also stated that she may object to the admissibility of certain of the Defendants' documents, such as Inmate Grievance Procedures (IGPs), if admitted by Plaintiffs

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<sup>1/</sup> For reasons of confidentiality, the Exhibit List has not been included in the copy of the pretrial statement filed with the Clerk's Office.

to prove the truth of the matter asserted, but not if admitted to show notice to the Defendants.

**VI. LIST OF DEPOSITIONS DESIGNATED BY PLAINTIFFS**

Plaintiffs have designated the pages listed below as relevant excerpts from depositions of D.C. Department of Corrections employees. Under Rule 32 of the Federal Rules of Civil Procedure, depositions or parts of depositions are admissible for any purpose permitted by the Federal Rules of Evidence, Fed. R. Civ. P. 32(a)(1), including admissions made by a party or party's employee concerning matters within the scope of employment during the existence of the employment relationship. Fed. R. Civ. P. 32(a)(2); Note of Advisory Committee (1980 Amendment); Fed. R. Evid. 801(d)(2).

Plaintiffs also request that they be allowed to designate the following relevant excerpts from depositions of members of the plaintiff class taken by Corporation Counsel in this action. Pursuant to Rule 32(a)(3) of the Federal Rules of Civil Procedure, the deposition of a witness may be used at trial "by any party for any purpose" if the "witness is unable to attend or testify because of . . . imprisonment." Fed. R. Civ. P. 32(a)(3)(C); Charles v. Wade, 665 F.2d 661, 664 (5th Cir. 1982); In re Moore, 39 Bankr. 571, 572 (Bankr. M.D. Fla. 1984). In addition, subsection (E) of the Rule states that the Court may allow a deposition to be used in its discretion if "such exceptional circumstances exist as to make it

desirable" and "in the interest of justice." Fed. R. Civ. P. 32(a)(3)(E). Because the use of deposition testimony of certain plaintiffs will minimize the number of class members who will give live testimony, Plaintiffs respectfully request that they be allowed to designate the following Jane Doe depositions for possible use at trial.

The complete list of deposition excerpts submitted by Plaintiffs is as follows:

1. Deposition of Majid Ali, February 3, 1994.  
Pages: Entire.
2. Deposition of Bernard Braxton, May 4, 1994.  
Pages: Cover; 3-5; 14-19; 22-30; 32-42; 44-71.
3. Deposition of Vera Brummell, May 6, 1994.  
Pages: Cover; 6; 12-97; 102-104.
4. Deposition of James Derr, March 28, 1994.  
Pages: Cover; 1-11; 13-14; 49-54; 66-73; 75-77; 79-88; 90; 97-103; 105-121; 131; 134-140.
5. Deposition of James Derr, May 5, 1994. Pages: Cover; 5-23; 26-27; 29-65; 67-68; 88-100; 102-106; 119-122; 133-135; 140.
6. Deposition of Michele Elzie, May 4, 1994.  
Pages: Cover; 9-10; 12; 16-21; 24-31; 34-41; 36-37; 40; 43-49; 51; 53-54; 65-67; 76-87; 96-99.
7. Deposition of Michele Elzie, May 4, 1994, Under Seal. Pages: Cover; 5-19.

8. Deposition of Vince Gibbons, April 6, 1994.

Pages: Entire.

9. Deposition of Regina Gilmore, March 1, 1994.

Pages: Cover; 6; 15-18; 25-51; 54-56; 59-60; 63-66; 69-72;  
74-75; 78-86; 90-111; 116-120; 124-129; 131-134; 137-138; 143-  
154; 156-188; 197-199; 203-208; 212-219; 226-231.

10. Deposition of Arthur Graves, April 7, 1994.

Pages: Cover; 7-10; 14-16; 18-25; 33-59; 67-70; 81; 85-98;  
100-126; 130-132.

11. Deposition of Dr. Charles Hall, April 6, 1994.

Pages: Entire.

12. Deposition of Dr. William Hall, April 4, 1994.

Pages: Entire.

13. Deposition of Vernon Hawkins, April 5, 1994.

Pages: Cover; 8-9; 11-12; 16-19; 23-29; 31-32; 35-41; 45-48;  
53-68; 75-77; 81-88; 103-104; 106-107; 111-114; 119-122; 125-  
126; 143-145; 147-149; 151-168; 171-180.

14. Deposition of John Henderson, February 25,

1994. Pages: Cover; 9-10; 13; 15-16; 39-42; 67-69; 84-102;  
106-167.

15. Deposition of W. Pearl Jackson, January 28,

1994. Pages: Entire.

16. Deposition of Yvette Jackson, March 30, 1994.

Pages: Entire.

17. Deposition of L.C. Jones, Under Seal, April 6, 1994. Pages: Cover; 14-41; 44-47; 61-66; 72-89; 101-192; 194-196.

18. Deposition of Paul Krull, March 8, 1994. Pages: Cover; 9-11; 22-277.

19. Deposition of Mance Langham, January 28, 1994. Pages: Cover; 5-11; 27-31; 37-38; 41-42; 45-47; 63-91; 93-119; 131-134; 154-155.

20. Deposition of G.H. McCathorine, March 30, 1994. Pages: Entire.

21. Deposition of Rev. Minor, March 21, 1994. Pages: Cover; 6-7; 15-22; 24-28; 30-38; 40-45; 48-49; 50-54; 94-124; 126-129.

22. Deposition of Reesa Motley-McMurtry, April 19, 1994. Pages: Cover; 7-17; 26; 30-33; 41-43; 54-60; 62-63; 65-72; 77; 91-99; 109-114; 118-128; 130-141; 143-149; 152-155; 157-159; 161-163; 169-176; 178-179; 183-186; 210-217; 219-269; 271-272; 274-354.

23. Deposition of Toni Perry, March 8, 1994. Pages: Entire.

24. Deposition of William Plaut, February 23, 1994. Pages: Entire.

25. Deposition of Howard Ray, March 7, 1994. Pages: Cover; 8-9; 13-17; 26-30; 34-50; 54-68; 70-76; 81-175.

26. Deposition of Howard Ray, Continued, April 5, 1994. Pages: Entire.

27. Deposition of James Riddick, April 8, 1994.

Pages: Cover; 6-8; 19-23; 29-230.

28. Deposition of David Roach, April 6, 1994.

Pages: Cover; 16-21; 23; 25-32; 35-37; 40-42; 44; 46-49; 51-76; 78-80; 82-85; 88-92; 100-105; 108-128.

29. Deposition of Hazel Smith, February 16, 1994.

Pages: Entire.

30. Deposition of Douglas Stempson, February 23,

1994. Pages: Cover; 9; 63-64; 87-104; 132-134; 166-198.

31. Deposition of Dr. Eliza Taylor, April 7, 1994.

Pages: Entire.

32. Deposition of Christine Welch, March 21, 1994.

Pages: Cover; 5-8; 15-19; 21-28; 30-32; 42-47; 55-67; 69; 71-74; 76-82.

33. Deposition of Jane Doe II, January 13, 1994.

Pages: Cover; 12; 18-26; 44-127; 138-158.

34. Deposition of Jane Doe III, January 18, 1994.

Pages: Cover; 17-19; 25-32; 43-102; 104-127; 131-149.

35. Deposition of Jane Doe III, March 24, 1994.

Pages: Cover; 162-163; 165-194.

36. Deposition of Jane Doe IV, January 18, 1994.

Pages: Cover; 24-40; 61-117; 122-149; 152-161.

37. Deposition of Jane Doe V, January 27, 1994.

Pages: Cover; 44-46; 48-49; 51-54; 61-62; 75-101; 109-147; 154-157; 162-208.

38. Deposition of Jane Doe VI, January 27, 1994.

Pages: Cover; 23-26; 40-44; 59-70; 72-127; 140-143.

39. Deposition of Jane Doe VII, January 21, 1994.

Pages: Cover; 27-29; 49-58; 60-93; 95-132; 146-150.

40. Deposition of Jane Doe VII, March 29, 1994.

Pages: Entire.

41. Deposition of Jane Doe VIII, January 26, 1994.

Pages: Cover; 56-60; 65-74; 82-120; 124.

42. Deposition of Jane Doe IX, January 21, 1994.

Pages: Cover; 79-80; 87-212; 239-240.

43. Deposition of Jane Doe IX, March 29, 1994.

Pages: Entire.

44. Deposition of Jane Doe XI, January 24, 1994.

Pages: Cover: 80-84; 87-96; 103-106; 113-119; 123-148; 163-167; 170-173; 252-277.

45. Deposition of Jane Doe XII, January 25, 1994.

Pages: Cover; 94-96; 113-114; 176-250.

46. Deposition of Jane Doe A, March 24, 1994.

Pages: Cover; 15-58.

47. Deposition of Jane Doe A, March 31, 1994.

Pages: Cover; 3-39; 46-63; 66-68; 72-73; 75-81.

48. Deposition of Jane Doe B, March 21, 1994.

Pages: Cover; 90-109; 111-128; 131-139; 144-145; 153-166; 177-180.

49. Deposition of Jane Doe E, March 22, 1994.

Pages: Cover; 8-11; 16; 46-107.

50. Deposition of Jane Doe L, March 24, 1994.

Pages: Cover; 6-69; 73-76; 78-79.

51. Deposition of Jane Doe P, March 31, 1994.

Pages: Cover; 9-81.

52. Deposition of Jane Doe W, March 22, 1994.

Pages: Cover; 7-17; 21-38.

53. Deposition of Jane Doe FF, March 22, 1994.

Pages: Cover; 10-14; 18-25; 27; 30-33; 36-40; 45-85; 95-96;  
98-100.

54. Deposition of Jane Doe PP, March 24, 1994.

Pages: Cover; 18-33; 39-104.

#### VII. PENDING MOTIONS

The following motions and applications are currently  
pending before the Court:

| <u>Date</u> | <u>Motion</u>                                                                                                                        | <u>Plaintiffs' Position</u>          |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| 3/22/94     | Defendants' Motion<br>for Reconsideration<br>of Court's Order of<br>3/17/94 regarding<br>Reimbursement of Costs<br>of Medical Expert | Motion should be<br>denied.          |
| 4/22/94     | Plaintiffs' Applica-<br>tion for Award of<br>Costs Consistent with<br>the Court's Order of<br>3/17/94                                | Award of Costs should<br>be ordered. |

|         |                                                                                                                                                                  |                                                                                                   |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 4/28/94 | Plaintiffs' Motion for Order of Contempt Against Defendants and for Order to Remedy, Prohibit and Impose Sanctions for Violation of the Court's Protective Order | Motion should be granted. (Proposed order included in Plaintiffs' Reply Motion filed on 5/16/94). |
| 5/2/94  | Plaintiffs' Motion for Order of Contempt Against Defendants for Violation of the Court's Protective Order                                                        | Motion should be granted. (Proposed order included in Plaintiffs' Reply Motion filed on 5/16/94). |
| 5/3/94  | Plaintiffs' Motion for Contempt and to Compel Production of Documents                                                                                            | Motion should be granted.                                                                         |
| 5/9/94  | Defendants' Cross-Motion for Sanctions                                                                                                                           | Motion should be denied.                                                                          |
| 5/10/94 | Plaintiffs' Motion for Order to Preclude Testimony of Defendants' Expert Witnesses                                                                               | Motion should be granted.                                                                         |

**VIII. MOTIONS IN LIMINE**

Plaintiffs intend to offer several motions in limine at trial or at the Court's discretion. These motions will include the following:

A. Plaintiffs will ask the Court to allow the Jane Does who appear in Court to testify anonymously.

B. Plaintiffs will ask the Court to hold that Defendants' piecemeal attempts to improve the conditions of confinement and programs and services for women prisoners after the filing of the complaint in this action should not be considered as evidence by the Court in determining liability.

C. In the third motion, Plaintiffs will ask the Court to exclude evidence of program comparisons between female inmates at CTF and male inmates at CTF as not relevant to the legal analysis in this case.

Respectfully submitted,

COVINGTON & BURLING

By:  

Peter J. Nickles (#53447)  
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Dated: May 17, 1994

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 17, 1994, I caused a copy of the foregoing Plaintiffs' Pretrial Statement to be hand-delivered to:

Maria Amato, Esq.  
Assistant Corporation Counsel  
6th Floor South  
441 Fourth Street, N.W.  
Washington, D.C. 20001

Caroline Brown

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.                         | ) |                 |
| _____                               | ) |                 |

**EXHIBITS TO**  
**PLAINTIFFS' PRETRIAL STATEMENT**

Peter J. Nickles (#53447)  
Caroline M. Brown (#438342)  
Tracy A. Thomas (#435742)

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Dated: May 17, 1994

Table of Exhibits

|           |                                                                                               |
|-----------|-----------------------------------------------------------------------------------------------|
| Exhibit A | Supplemental Interrogatories                                                                  |
| Exhibit B | Exhibit List                                                                                  |
| Exhibit C | Letter to Ms. Amato from Ms. Thomas,<br>dated May 13, 1994 re: stipulation to<br>exhibit list |