UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Douglas Coleman, Aaron Fillmore, Jerome Jones, individually and on behalf of a class of all others similarly situated, Plaintiffs, v. Gladyse C. Taylor, Acting Director of the Illinois Department of Corrections, Defendant.	))))))))))))	Case No. 1:15-cv-5596 CLASS ACTION COMPLAINT

CLASS ACTION COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

NATURE OF THIS ACTION

1. Plaintiffs are all individuals who have been or are currently transferred from general prison population into segregation. Plaintiffs seek to represent a class consisting of all prisoners who are subjected to harmful punitive isolation sentences and who are or who will be confined in Illinois' prisons. The practice of punishing incarcerated individuals by transferring them from the general prison population to extreme isolation has long been shown to cause severe risk of grave physical and psychological harm. Regardless of its label—solitary confinement, disciplinary segregation, investigative status, or administrative detention—extensive research shows that the practice of subjecting individuals to extreme isolation causes pain, suffering, psychological and emotional trauma, physical injury, and, in extreme cases, death. Moreover, the practice of punishing incarcerated individuals by subjecting them to extended periods of extreme isolation has long been viewed by courts, prison authorities, bar

associations, and United Nations commissions on torture as a practice to be avoided in all but the most limited cases where the individual presents a credible and continuing serious threat to others or himself.

2. The State of Illinois, however, does not restrict the use of extreme isolation to such limited circumstances. Instead, the State of Illinois, as a matter of custom and practice, arbitrarily, capriciously, and routinely uses extreme isolation as means of punishing even the most minor prison infractions. Shockingly, as of June 30, 2013, approximately 2,300 residents of the Illinois Department of Corrections ("IDOC") were serving extreme isolation sentences. *See* Exhibit A, Segregation Housing Utilization and Population Dissemination, and Institution Population Chart, dated June 30, 2013. Of these 2,300 individuals, 680 individuals were serving extreme isolation sentences of more than a year, and 218 individuals were serving sentences of more than ten years. *See* Exhibit B, Segregation Sentence Imposed Compared to the Actual Length of Stay in Segregation, dated June 30, 2013. At Illinois' maximum security prisons, approximately 1,400 individuals, constituting approximately 15% of Illinois' maximum security prison population, were held in extreme isolation as of June 30, 2013. *See* Exhibit A. Of these 1,400 individuals, 654 individuals were serving extreme isolation sentences of more than a year, and 208 individuals were serving sentences of more than ten years. *See* Exhibit B.

3. Individuals sentenced to extreme isolation are held in tiny, often windowless cages far smaller than even the already tiny general population cells. Led in shackles to these tiny, filthy, cold, and barren cages, these individuals are stripped of their dignity and rendered lifeless for months and years on end. Held in isolation for 23 hours or more a day, with virtually around-the-clock surveillance, these individuals are deprived of meaningful social interaction and any ability to engage in any meaningful or productive physical or mental activity, including

educational programs. Moreover, corrections officers may impose additional punishment by depriving individuals in extreme isolation of what little remains—access to nourishment and edible food, exercise, showers, bedding, and personal effects (including their clothing) may all be arbitrarily denied and/or taken away.

4. This practice is cruel, inhumane, offensive to basic human decency, and in violation of the Eighth and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs (who themselves are held by IDOC in extreme isolation, i.e., segregation) bring this civil rights action pursuant to 42 U.S.C. § 1983 individually and on behalf of similarly situated persons. In this action, Plaintiffs challenge the State of Illinois' policies and customs, which place every individual incarcerated in Illinois at risk of being subjected to extraordinarily long and severely harmful extreme segregation sentences. Plaintiffs seek preliminary and permanent injunctive relief against the unconstitutional use of extreme isolation punishment.

JURISDICTION AND VENUE

5. Plaintiffs and this class bring claims pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments to the United States Constitution.

6. This Court has jurisdiction over claims seeking declaratory and injunctive relief pursuant to 28 U.S.C. §§ 1331 and 1343, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

7. Venue is proper in the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 1391(b)(2) because some Plaintiffs reside at Stateville Correctional Center ("Stateville"), which is located in this district, and a substantial part of the events or omissions giving rise to the claims bought by plaintiffs and the class have occurred in this District.

PARTIES

8. Named Plaintiffs Douglas Coleman, Aaron Fillmore, and Jerome Jones are individuals who have been or are currently incarcerated at facilities under IDOC's custody and control.

9. Douglas Coleman is a 55-year old African-American man, currently incarcerated at Stateville Correctional Center. During his time at Stateville, he was sentenced to six months in segregation, but ultimately spent eight months in segregation after receiving 60 extra days because of two disciplinary tickets, discussed below from 2013 to 2014. He was housed in F-House, cell 135. During Mr. Coleman's time in segregation, he suffered from unbearable living conditions and physical injuries because authorities failed to accommodate his physical disabilities in the shower.

10. Plaintiff Aaron Fillmore is a 40-year-old Caucasian man, currently incarcerated at Lawrence Correctional Center and is currently in extreme isolation. Mr. Fillmore has spent the last 15 years in extreme isolation. During that time, Mr. Fillmore has continuously been in either segregation, Administrative Detention, or Investigate Status, all of which are ultimately extreme isolation. Mr. Fillmore has not been provided with a meaningful opportunity to defend himself against the charges which have kept him in isolation for 15 years—and during much of this time, he has not even been given meaningful notice of what he did wrong to warrant such extreme and extended isolation. During most of that time, Mr. Fillmore has had little to no physical contact with other people and has suffered mentally as a result. Mr. Fillmore's earliest release date is 2038.

11. Plaintiff Jerome Jones is a 38-year-old African-American man of Moorish nationality, currently incarcerated at Lawrence Correctional Center in Administrative Detention segregation. He is in "Phase III" of Administrative Detention—meaning he has not violated any

rules for many months. Mr. Jones was removed from the general population of Stateville Correctional Center for reasons unknown to him on July 25, 2013, and was then transferred to Lawrence Correctional Center on August 30, 2013. Despite not receiving a disciplinary ticket since 2001, Mr. Jones has never been able to successfully challenge the false accusation of his alleged gang association he later learned had put him in Administrative Detention in 2013 at Stateville. Mr. Jones, not a member of any alleged gang, continues to suffer from his lack of inmate privileges including decreased visitation and eating meals only in his cell. Mr. Jones' earliest release date is 2041.

12. Defendant Gladyse C. Taylor is the Acting Director of IDOC. Acting Director Taylor has final policy-making authority within IDOC, and is personally involved in authorizing and maintaining the unconstitutional policies and customs challenged by Plaintiffs. Acting Director Taylor is sued in her official capacity for declaratory and injunctive relief.

FACTS

The Severe Risk of Harm Caused by Extreme Isolation

13. The practice of punishing incarcerated individuals by transferring them from the general prison population to extreme isolation has long been shown to cause severe risk of grave physical and psychological harm. Documented physical and physiological harms caused by forced isolation include suicide, self-harm, cardiovascular and genito-urinary complications, tremulousness, gastro-intestinal impairment, heart palpitations, insomnia, migraines, loss of appetite, weight loss, deteriorated vision, sudden excessive perspiration, back and joint ailments, hypersensitivity to external stimuli, and lethargy.

14. Psychologically, extreme isolation may cause many severe conditions such as post-traumatic stress disorder, hallucinations, severe and chronic depression, depersonalization, social withdrawal, confusion, apathy, anxiety, heightened nervousness, night terrors, panic

attacks, irrational anger, rage, loss of impulse control, paranoia, claustrophobia, concentration and memory deficiencies, and perceptual distortions. As Supreme Court Justice Anthony Kennedy stated, while speaking before the House Appropriations Subcommittee on Financial Services and Federal Government, "[s]olitary confinement literally drives men mad." O'Connor, Lydia, HuffingtonPost.com, "Justice Anthony Kennedy: Solitary Confinement 'Literally Drives Men Mad,'" http://www.huffingtonpost.com/2015/03/24/anthony-kennedy-solitary-confinement_n_6934550.html?ir=Chicago&ncid=tweetlnkushpmg00000059 (last visited March 30, 2015).

15. For healthy individuals, the combined physical and psychological effects caused by forced isolation can result in grave harm even after short periods of segregated confinement. When the duration of confinement extends beyond days and into weeks, months, or years, however, the consequences can be devastating, permanent, and even deadly. This is particularly the case when individuals with preexisting physical and mental health conditions are subjected to extended periods of isolation.

Many States (But Not Illinois) Recognize the Severe Harm Caused by Extreme Isolation and Have Adopted Policies and Standards to Protect Against Such Harm

16. Precisely because extreme isolation engenders such a significant risk of severe physical and psychological harm and stands as an affront to the basic notions of human dignity, almost all states have long prohibited its imposition as punishment for a criminal offense. Moreover, many states and bar associations have adopted policies to protect against the unnecessary physical and psychological harms caused by extreme isolation. For example, after a government study determined that tighter controls were necessary to protect against the overuse of segregation, the State of Maine passed reforms that cut its segregation population in half and expanded access to social stimulation for prisoners placed in segregation. Correctional leaders in

Michigan have also implemented programs to reduce the duration of isolation sentences and the number of prisoners subject to isolation. The New York Bar Association, noting the serious risk of physical and psychological harm caused by extreme isolation, has adopted a resolution advocating that, if segregated confinement is to be used at all, it should only be imposed for a number of days—not years, months, or even weeks. The New York Bar Association further found long-term segregated confinement to be constitute a counterproductive, unnecessary infliction of pain.

National and International Authorities Also Have Adopted Standards and Policies to Protect Against the Harm Caused By Extreme Isolation

17. The American Bar Association has promulgated standards to ensure that prisoners are not unnecessarily subjected to the severe physical and psychological harm caused by extreme isolation. As a threshold matter, the ABA standards require that prisoners be separated from the general population only after a finding that (1) the individual committed a severe disciplinary infraction in which safety or security was seriously threatened, or (2) the individual presents a credible and continuing serious threat to others or himself. In order to protect against the unnecessary and unjustified harm caused by forced isolation, the ABA standards abolish extreme isolation under any circumstances, requiring that any isolation imposed on a prisoner be for the briefest term and under the least restrictive conditions possible.

18. Human rights organizations and authorities have also found that adequate minimum safeguards are absolutely necessary to protect against the severe harms caused by extreme isolation. The United Nations Special Rapporteur on Torture, for example, has concluded that the use of solitary confinement for punitive purposes can never be justified, given the disproportionate magnitude of suffering it imposes. Furthermore, the UN Special Rapporteur has held that more than 15 days in solitary confinement amounts to torturous, cruel, and unusual

punishment. For this reason, the UN Special Rapporteur recommends that such sentences be abolished in all cases, even where isolation is determined to be absolutely necessary for protecting the safety of prisoners and staff. Similarly, the UN General Assembly has called for an "absolute abolition" of the use of extreme isolation as punishment, and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has recommended that, due to its potentially hazardous effects, extreme isolation only be used as punishment in exceptional cases and for the shortest period of time possible.

19. As reflected by these various authorities and organizations, the overwhelming consensus has determined that if isolation is to be used at all, sufficient minimum protocols and safeguards are absolutely necessary to ensure that it is only used as a last resort and, even then, that it is only used for a short amount of time and under strict controls.

Illinois Is A Rogue Governmental Entity When It Comes To The Use of Extreme Isolation As A Means of Punishment

20. In derogation of national and international standards, Illinois uses extreme isolation as a disciplinary tool of the first resort with astonishing frequency and length for the violation of any one of approximately 50 internal prison regulations, the majority of which can be classified as relatively minor offenses. As of June 30, 2013, IDOC maintains over 3,000 segregation beds, which are used to separate individuals from the general prison population and subject them to punishing forms of extreme isolation and deprivation. *See* Exhibit A. Approximately 2,300 of these segregation beds were occupied by individuals as of June 30, 2013. *Id.* Of these 2,300 individuals, 680 individuals were serving segregation sentences of more than one year and 218 individuals were serving segregation sentences of more than ten years. *See* Exhibit B. In fact, despite the closing of IDOC's Tamms Correctional Center, which

eliminated 168 individuals from segregation, IDOC's overall segregation population increased by 257 individuals from June 30, 2012, to June 30, 2013. *See* Exhibit A.

21. The frequency with which IDOC uses extreme isolation as punishment is a direct consequence of the system-wide policies and customs governing the conduct and punishment of all individuals incarcerated throughout the Illinois prison system. In contrast to the clearly defined standards and criteria discussed above, Illinois permits the use of extreme isolation as punishment for conduct that poses no threat to the safety of its prisoners or the security of its correctional facilities. Illinois also imposes segregation sentences for extraordinary and disproportionate lengths of time that have no connection to any legitimate penological rationale or even to the seriousness of the offense committed. Defendant Acting Director Taylor was and is personally involved in authorizing and continuing the unconstitutional policies and customs described below.

22. IDOC has promulgated numerous internal regulations governing every aspect of the behavior of individuals incarcerated in Illinois state prisons. Disciplinary offenses are defined in Appendix A to Section 504.20 of Title 20 of the Illinois Administrative Code. *See* 20 Ill. Admin. Code § 504.20 (West 2015). These offenses cover a wide range of conduct from assault or possession of dangerous weapons to "disregarding basic hygiene" and include violations of facility rules. 20 Ill. Admin. Code § 504, App. A (West 2015).

23. If one of IDOC's employees believes that an individual has violated any of these rules, he or she must prepare a "disciplinary report" or an "investigative report." These reports document the alleged behavior and list any witnesses. He or she may orally reprimand the individual if the offense is one of those listed in the 400 series of Appendix A. *See* 20 Ill. Admin. Code § 504.30 (West 2015).

24. Both before and after a disciplinary report or an investigative report is prepared, the shift supervisor can decide whether to place the individual in "temporary confinement" pending the issuance of a report or a disciplinary hearing. *See* 20 Ill. Admin. Code § 504.40 (West 2015).

25. A "reviewing officer" is then assigned to (1) review the placement of an individual in temporary confinement, (2) interview those individuals receiving an investigative report, and (3) review an individual's disciplinary report. When reviewing a disciplinary report, a reviewing officer must determine whether the offense committed is "major or minor in nature." *See* 20 Ill. Admin. Code § 504.50 (West 2015). All those offenses listed in the 100, 200, or 500 series of Appendix A are considered major offenses. Those offenses listed in the 300 or 400 series may be designated as either minor or major offenses. *See* 20 Ill. Admin. Code § 504.50(d)(3) (West 2015).

26. All major offenses are assigned to the "adjustment committee" for a hearing while all minor offenses are assigned to the "program unit" for a hearing. Those reports or offenses classified as major offenses are eligible for placement in segregation if found guilty. A vast number of these "major" offenses involve nonviolent and non-disruptive behavior or actions that pose little to no threat to the safety of the prisoners or the security of the facilities. *See* 20 Ill. Admin. Code § 504.80(k)(4)(H).

27. IDOC's policies and regulations offer minimal guidance to a reviewing officer's review of investigative and disciplinary reports as well as a prisoner's placement in temporary confinement. IDOC's policies and regulations fail to provide incarcerated individuals with an explanation of the types of conduct that may result in more or less severe classification. These same policies and regulations fail to provide notice to incarcerated individuals of the potential

segregation sentencing ranges if found guilty of a violation of IDOC's rules, including facility rules.

28. Individuals charged with major offenses are afforded an extremely limited "hearing," with minimal process, to adjudicate their guilt. IDOC employees with many other work responsibilities often act as adjustment committee members. With respect to adjudicating guilt, adjustment committee members are permitted to credit the testimony of corrections staff over that of a prisoner. The prisoner can be denied the opportunity to present his own evidence. The prisoner is denied the right to question or confront adverse witnesses. The prisoner can even be denied the ability to know the identity of the witnesses. Prisoners can be, and frequently are, convicted of offenses based only on the disputed word of a single corrections officer following a "hearing" in the hallway outside the prisoner's cell.

29. Segregation is also imposed on individuals without a hearing and even without notice, as a form of "nondisciplinary status of confinement." 20 Ill. Adm. Code § 504.660 (West 2015). This status is referred to as "administrative detention." *Id.*

30. Individuals are placed in administrative detention at the discretion of the Chief Administrative Officer (commonly known as "Warden") with almost no review or opportunity for the individual to contest the allegations. 20 Ill. Adm. Code §§ 504.660(a), (b), and (c).

31. Review of the individual's placement in administrative detention need only be reviewed every 90 days and individuals may remain in that status indefinitely. 20 Ill. Adm. Code §§ 504.660(a) and (c).

32. IDOC's policies permit and encourage segregation sentences for behavior that demonstrates no risk of harm to the general prisoner population or to IDOC's employees. A substantial number of segregation sentences are for this type of behavior. For example, from

January 1, 2008, to December 31, 2008, only 15% of sentences to extreme isolation involved offenses that implicated violent conduct or possession of dangerous contraband. *See* Exhibit C, Quantitative Findings on Use and Outcomes of Segregation in IL DOC, dated September 28, 2011. Furthermore, IDOC employees punitively imposed segregation sentences for the following behaviors:

a. Over 500 segregation sentences involving "damage or misuse of property";

b. Approximately 300 segregation sentences involving "intimidations or threats";

c. Approximately 150 segregation sentences involving possession of "drugs or drug paraphernalia";

d. Over 1,500 segregation sentences for "unauthorized movement";

e. Over 1,300 segregation sentences involving "insolence";

f. Over 800 segregation sentences for "non-dangerous contraband";

g. Over 1,600 segregation sentences for "violation of rules";

h. Over 1,500 segregation sentences for "disobeying a direct order"; and

i. Approximately 500 segregation sentences for "failure to report." *Id.*

33. IDOC's policies and customs regarding sentencing are a key factor in the arbitrary and inconsistent punishments that occur within IDOC's facilities. IDOC's policies and regulations are plainly inadequate and fail to provide guidance in order to ensure consistent and proportionate disciplinary outcomes.

34. With respect to sentence length, IDOC's policies provide no mandatory sentence ranges. Instead, IDOC's policies provide for maximum penalties for each offense. The maximum penalties, however, permit disproportionate and arbitrary sentencing to segregation. An individual in possession of a package of cigarettes, for example, could be sentenced to up to

three months of extreme isolation. *See* 20 Ill. Admin. Code § 504. Tbl. A (West 2015). Furthermore, IDOC's policies fail to place any upper limit on the number of consecutive segregation sentences that an individual may be forced to serve. *See* 20 Ill. Admin. Code § 504.110(b) (West 2015). Thus, individual segregation sentences of 30 days for nonviolent behavior may have the practical effect of ensuring that the prisoner spends months or even years confined in extreme isolation. In addition, indeterminate periods of segregation are frequently allowed and enforced. *See* 20 Ill. Admin. Code § 504.115 (West 2015).

35. IDOC's policies provide vague and generic guidance or criteria for when segregation should be imposed as a disciplinary action. There is no articulation of the rationale for imposing such extreme isolation or for the length of time of each segregation sentence. Instead, segregation sentences are often routinely authorized and imposed without adequate explanations as a matter of policy and custom. *See* 20 Ill. Admin. Code § 504.20(b) and 20 Ill. Admin. Code § 504.80(k)(4)(H) (West 2015).

36. Moreover, IDOC's policies permit employees to impose segregation as punishment without taking into account factors that might make such extreme isolation particularly disproportionate, painful, and harmful. IDOC employees are permitted to impose segregation sentences on the most vulnerable individuals, e.g., individuals with a history of mental illness, individuals with daily medical needs, and the elderly.

37. Once an individual begins serving his or her segregation sentence, IDOC's policies allow lengthy confinements without any subsequent individualized reviews to determine whether it is still necessary to keep that individual in segregation. Nor do IDOC's policies require that officials periodically evaluate whether the segregation sentence may be causing the individual increasingly severe and grave harm. Even indeterminate segregation sentences are

only required to be reviewed once during the first year and once every 180 days thereafter. *See* 20 Ill. Admin. Code § 504.115 (West 2015).

38. IDOC's policies and customs governing post-sentencing review of disciplinary actions fail to ensure any consistent or meaningful relief from grossly disproportionate segregation sentences. New proceedings are only granted if the original proceeding were found to be "defective" on four bases. No further guidance is offered by IDOC's policies in making this determination of defectiveness. *See* 20 Ill. Admin. Code § 504.90 (West 2015). Furthermore, requests to reduce an individual's segregation sentence can be unilaterally denied without any explanation. *See* 20 Ill. Admin. Code § 504.120 (West 2015).

39. All of the above policies work in conjunction with customs that have the force of formal policy throughout the IDOC system, tolerating and encouraging needlessly and purposefully harmful segregation sentences for all forms of behavior, no matter how minor or nonthreatening. Lacking any adequate policies and procedures, IDOC's employees impose unjustified and arbitrary punishments that are customarily authorized, ratified, and enforced system-wide.

40. In combination, IDOC's policies and customs result in unjustified, inconsistent, and harmful segregation sentences. Individuals receive lengthy sentences that are grossly disproportionate as compared to the underlying misbehavior. Similarly situated prisoners receive inconsistent, often vastly different, sentences for similar misconduct. African-American prisoners are more likely to receive segregation sentences, and to receive longer segregation sentences, as compared to individuals of other racial or ethnic groups.

41. Acting Director Taylor has final policy-making and supervisory authority within IDOC. As director, and pursuant to Illinois law, she is aware of and has ultimate authority with

regard to all of IDOC's internal rules, regulations, policies, procedures, and customs. According to the IDOC's website, Acting Director Taylor and her staff are "committed to reducing recidivism, operating a safe and secure prison system as well as enhancing prison-based treatment, prevention programs and the successful reentry of inmates into society."

42. Defendant Acting Director Taylor was and is personally involved in authorizing and maintaining the disciplinary policies, procedures, and customs detailed in this complaint, and their consequences and effects. She has the responsibility to review and evaluate IDOC's disciplinary policies and the authority to adopt, amend, or revise them.

43. Defendant is aware of the harm caused by IDOC's existing disciplinary policies and customs. Defendant is aware that segregation causes pain, suffering, mental deterioration, and physical injury. IDOC had statistical evidence and data that demonstrate the arbitrary, inconsistent, and grossly disproportionate segregation sentences caused by its inadequate policies and customs. *See* Exhibits A, B and C; *see also* Exhibit D, Various Segregation Charts, dated from September 30, 2009, to December 31, 2012. Defendant is also aware that segregation sentences are often imposed for offenses that pose no threat to prison safety or security, and for lengths of time that far exceed any legitimate punitive goal and do little more than inflict unnecessary pain and an unjustified risk of harm. *Id.*

44. Defendant is aware of the consequences of IDOC's policies and customs as the result of numerous communications to them from outside organizations and entities, including the study conducted by the Vera Institute of Justice ("Vera Institute") on or around September 2011. *See* Exhibit E, Memorandum of Understanding Between the Illinois Department of Corrections and The Vera Institute of Justice, dated May 2010, and Exhibit F, Reducing Prisoner

Isolation: An Innovative Approach to Classification and Management of Segregation, Control Units, and Supermax, undated.

45. Specifically, the Vera Institute, an independent, nonpartisan, nonprofit center for justice policy and practice, found, among other things, that (1) "[t]he conduct exhibited by prisoners admitted to [Disciplinary Segregation] and [Administrative Detention Segregation] warrants sanctions, but it is ***not clear that the types of placement and lengths of stay are proportionate to prior and current negative behavior***;" (2) "[t]he conditions of confinement in [Disciplinary Segregation] are ***not acceptable*** with respect to recreation, showers, mental health treatment, or contacts with clinical-services staff, and are not in line with best or standard practices in other systems;" (3) [t]here is a ***need to standardize*** key policies and program attributes for [Disciplinary Segregation] and [Administrative Detention Segregation] across the system; (4) "[t]he proportion of women in [Disciplinary Segregation] is almost twice that of men;" and (5) "[a] signification portion of the [Disciplinary Segregation] population has segregation time that ***exceeds*** their time left to serve." Exhibit G, IDOC Segregation Study Major Findings, undated (emphasis added).

46. Defendant is also aware of a pattern of deficiencies through complaints that they have received through prisoner grievances and civil litigation.

47. Defendant has long been aware that IDOC's disciplinary procedures fail to provide many of the minimum safeguards recommended by correctional, legal, mental health, and human rights experts. The certainty that these policies and customs have and will continue to lead to unjustified and harmful segregation sentences is plain from the lack of adequate guidance contained in IDOC's written policies themselves, and the fact that IDOC's employees

customarily impose segregation sentences far exceeding even the minimal guidance that is provided.

48. The extraordinary length of segregation sentences imposed by IDOC – approximately half of the sentences imposed on those in segregation as of June 30, 2013, were for more than three months, some five to ten times longer than the maximum allowable time recommended by mental health, legal, and human rights experts—serves no legitimate penological justification. In fact, the overwhelming evidence from other state corrections systems, as well as the Vera Institute study, is that the use of punitive extreme isolation exacerbates physical violence and psychological harms for both incarcerated individuals and corrections staff, and that it is counterproductive to legitimate penological goals such as prison safety, deterrence, and rehabilitation. *See* Exhibits A-G.

49. Implementing procedural safeguards, such as adopting adequate criteria designed to ensure proportionality and curtail the length of segregation sentences, to avoid the risk of harm for vulnerable prisoners, and to provide notice to prisoners and staff of the length of segregation that may be imposed as punishment for particular behaviors, would significantly protect against the risk of erroneous deprivations of the most fundamental constitutional rights, and would not unduly interfere with Defendant's legitimate interests.

50. Despite all of the above, Defendant personally authorized these policies and customs although they have the authority, ability, and ultimate responsibility to ensure IDOC's policies and customs do not inflict unnecessary and avoidable harm on individuals incarcerated in Illinois prisons. By continuing these policies and practices, Defendant is responsible for the systemic and ongoing violations of the constitutional rights of individuals incarcerated in Illinois prisons, including the harms suffered by each of the Plaintiffs, as described below.

Douglas Coleman

51. Mr. Coleman was sentenced to six months in segregation, but ultimately spent eight months in segregation during 2013 and early 2014, after receiving 60 extra days because of two additional disciplinary tickets. He was housed in F-House, cell 135.

52. Mr. Coleman's segregation sentence was a result of alcohol found in his cell. Mr. Coleman said it was his cellmate's, but he took the fall for it because his cellmate had cancer and he did not want his cellmate to go to segregation.

53. Mr. Coleman reported that the conditions in segregation included roaches, mice, and birds flying inside the unit. At times, there were even insects and mice in the food. Even when the food was not tainted by insects and rodents, it was of low quality and the inmates were given very small portions. He had to "sleep with one eye open" because of the mice. In winter, the broken windows and missing window panes made the cell unbearably cold. No one was allowed to put blankets on the windows to cover the broken panes and prevent cold air from coming into the cell and doing so would result in additional disciplinary tickets.

54. An inmate known to be mentally disturbed was placed in Mr. Coleman's cell with him despite the fact that mentally disturbed patients were supposed to be housed in single cells. Mr. Coleman feared the inmate and requested a single cell because he felt that he was in danger, but no action was taken.

55. Confined to a wheelchair due to a stroke that occurred before he was placed in segregation, Mr. Coleman suffers from limited mobility. The stroke also necessitated the use of a colostomy bag. While in segregation, the officers forced Mr. Coleman to clean the showers before and after using them. This was difficult and dangerous because of Mr. Coleman's physical condition and often led to painful falls. On one occasion, Mr. Coleman fell in the

shower and laid on the floor in pain for hours while the officers laughed at him. The officers eventually dragged Mr. Coleman out of the shower and took him to the medical unit, where a nurse refused to treat him. Mr. Coleman returned to his cell in terrible pain, and after his cellmate called for help, he was finally given pain relievers. To date, Mr. Coleman has received no medical attention despite still suffering from pain from the fall.

56. Mr. Coleman has filed at least 15 grievances since 2012 complaining of the conditions in segregation and the poor treatment he has received from the officers in segregation. For all 15 of the grievances, the Plaintiffs possess documentation of denials by the Administrative Review Board ("ARB"), demonstrating that Mr. Coleman exhausted his remedies by appealing the denials as far as he could. Nearly all decisions by the ARB stated that the issues were resolved or could not be resolved by the ARB. Each decision was issued many months after the initial grievance and one decision came over 16 months after Mr. Coleman had filed the grievance.

57. On August 1, 2013, Mr. Coleman filed a grievance stating that on that same day he had been told by an officer that he could not take a shower unless he cleaned the shower himself. The officer also told him that he was not to have a wheelchair. Although Mr. Coleman explained to the officer that he had a medical permit for the wheelchair to go to the shower, the officer denied him its use. It also stated that Mr. Coleman needed to clean his colostomy bag, but was afraid to do so for fear of angering his cellmate. Mr. Coleman, therefore, requested a single cell. Finally, Mr. Coleman requested that the officers be held accountable for their actions.

58. The grievance was denied on October 3, 2013, by the grievance counselor, who stated simply that Mr. Coleman did not have a permit for the wheelchair and that "[t]he showers

are cleaned daily." Mr. Coleman appealed this decision, and on December 18, 2014 (more than 16 months after Mr. Coleman filed the grievance), the ARB responded. The ARB found that Mr. Coleman's grievance had been appropriately addressed by the grievance counselor. Neither decision addressed the behavior by the officers.

59. On August 21, 2013, Mr. Coleman filed a grievance alleging that on August 14, 2013, while he was trying to clean the shower in "F House" segregation, he slipped, hitting his head and injuring his back. Mr. Coleman had been told by the officers that if he did not clean the showers, he would not be allowed to take one. Mr. Coleman had gone two weeks without taking a shower, but finally needed to clean his colostomy bag and was forced to use the shower. Lt. Bell, one of the officers in charge of the segregation unit, accused him of falling to get out of cleaning the shower. Nurses made snide remarks and laughed and joked about Mr. Coleman's misfortune. Mr. Coleman lay on the shower floor for what felt like an hour before the officers finally took him to the emergency room. When they did so, the officers slammed Mr. Coleman to a gurney and roughly handcuffed him to it. Mr. Coleman requested simply that a full investigation be done into the incident, that the officers responsible (including Lt. Bell) be punished, that he be compensated for his injuries, and that he be free from reprisals. This grievance does not appear to have even been addressed by the counselor.

60. The next day, Mr. Coleman filed a grievance alleging that on July 25, 2013, he had asked an F-House officer to allow him the use of his wheelchair so that he could make it to the shower. The officer's response was "you can walk!" Mr. Coleman requested merely to know who had made the decision that he was not to have a wheelchair. The grievance counselor denied this grievance, stating that per the Health Care Unit ("HCU"), Mr. Coleman was not to have a wheelchair and that "[o]ffender is able to walk." The same day, Mr. Coleman filed an

additional grievance alleging disrespectful and threatening behavior by a nurse and requested a verbal apology. This grievance does not appear to have even been addressed by the counselor or the ARB.

61. On August 23, 2013, Mr. Coleman filed a grievance alleging that he stopped two officers and asked about getting a wheelchair. One officer said that he was still looking for a wheelchair. Mr. Coleman asked that they simply call HCU and ask for one, and the officers responded rudely and walked away. Mr. Coleman requested that the officers be trained in dealing with patients in line with the Americans with Disabilities Act. The grievance counselor found that Mr. Coleman should not be issued a wheelchair.

62. On August 30, 2013, Mr. Coleman filed a grievance stating that the day before, he had informed an officer that he wanted his medical shower and would like a wheelchair to make it to the shower. The officer informed Mr. Coleman that he could walk. Mr. Coleman detailed in the grievance that he was in pain and suffered from headaches, dizziness, and weakness in his legs such that he was unable to stand for more than a couple of minutes. Mr. Coleman simply requested that a wheelchair be provided to allow him to make it to the shower. The grievance counselor responded that Mr. Coleman was not assigned to a wheelchair.

63. On December 18, 2014 (again about 16 months after the grievances were filed), the ARB issued a response to Mr. Coleman's appeals of the denials of his grievances from: August 22, 2013 (it is unclear whether this denial also addresses Mr. Coleman's August 21 grievance, which was filed together with the August 22 grievance); August 23, 2013; August 30, 2013; and September 27, 2013. The response denied all four of Mr. Coleman's grievances, simply stating that Mr. Coleman's "grievance was appropriately addressed by HCU staff."

64. On August 27, 2013, Mr. Coleman filed a grievance alleging that the segregation nurse had denied him the use of his quad cane, advising him that he could use a crutch instead. Mr. Coleman responded that he would be unable to use the crutch and advised the nurse that he had been prescribed the quad cane and issued a permit to use it. The grievance counselor's response is dated October 8, 2013. The counselor stated that this was a duplicate grievance and that the HCU had not authorized Mr. Coleman to have the quad cane. On the side of the grievance, a note is written in what does not appear to be Mr. Coleman's handwriting. The note says "ST RECEIVED 03-01-14" (likely "FIRST RECEIVED 03-01-14" if not for a copying error). On August 21, 2014, the ARB denied Mr. Coleman's appeal, stating that the grievance was "[n]ot submitted in the timeframe outlined in Department Rule 504; therefore, this issue will not be addressed further." The response also stated that the ARB had previously addressed the issue. This response seems unfair to Mr. Coleman when it is taken into account that he filed the grievance the same day as the incident, and that the ARB seems to have received his grievance many months after it was filed through no fault of Mr. Coleman.

65. On September 27, 2013, Mr. Coleman filed a grievance stating that the officers ignored his medical pass to see the doctor. Mr. Coleman also requested and was denied the use of a wheelchair to get to the shower. At one time, Mr. Coleman had been able to hobble to the shower by clutching the railing, but was no longer able to do that since his fall when he was forced to clean the shower. Mr. Coleman requested that he be provided access to the doctor when he had a pass, as well as use of a wheelchair to get to the shower. The grievance counselor responded that "[n]o Stateville employee, security or non-security, can simply choose to cancel or ignore a medical pass." The counselor also noted that the wheelchair request was a duplicated grievance and that Mr. Coleman did not have a permit for a wheelchair. On December 14, 2014,

the ARB responded to the grievance, saying that it was denied "in accordance with AD05.03.103A (Monetary Compensation for Inmate Assignments)," which is curious because Mr. Coleman did not request the relief of monetary compensation. The response also noted that it "was verified offender was seen by Dr. Obaisi on 11/13/13 moot issue." To sum up, the prison's response to officers denying Mr. Coleman access to medical treatment for which he had a pass was to inform him that Stateville employees cannot choose to ignore the pass and to declare the issue moot because he was able to see a doctor more than 45 days later.

66. On October 26, 2013, Mr. Coleman filed a grievance alleging that he had asked an officer for a medical shower and had not received one. The officers told him that he was being denied showers because he threw feces all over the shower. Mr. Coleman suffers from a medical disorder necessitating the use of a colostomy bag. His options for cleaning the bag (necessary to prevent infection) were to clean it in the shower or in his cell. Doing so in his cell would anger his cellmate and result in unsanitary living conditions for both parties. Yet the officers refused Mr. Coleman the use of the shower because he cleaned his bag there. The grievance counselor responded to this grievance by stating that this was a "re-occuring (sic) theme in each grievance" and that a "copy is being sent to the HCU (again) for review and response." The counselor stated that Mr. Coleman would get a response when the HCU responded. On September 18, 2014, the grievance was denied by the ARB because it was "appropriately addressed by the grievance officer." It is unclear what, if anything, the grievance officer did to address the grievance, as Mr. Coleman continued to have problems with access to the showers in segregation.

67. On December 18, 2013, Mr. Coleman filed a grievance alleging that he had requested a medical shower and did not receive it. Mr. Coleman stated that he normally would

have reminded Lt. Sullivan, but the last time he had done so, Lt. Sullivan had told him that he did not need to ask and that he would get his showers. Mr. Coleman was afraid to ask again due to fear of reprisal. For relief, Mr. Coleman requested that he be transferred to the HCU. The grievance officer responded that every effort is made to ensure that offenders with special permits get their needs met but that "offender should remind staff early of scheduled movement." The response did not address the fact that Mr. Coleman feared reprisal from the officers for doing what the counselor suggested to remedy the situation. On December 18, 2014, the ARB found that the grievance was properly addressed by the counselor and that cell assignment in the HCU is at the discretion of medical staff.

68. On December 12, 2013, Mr. Coleman filed a grievance alleging that there was no heat in his segregation cell, causing it to be freezing cold. The cold was such that ice accumulated on the cell windows. The toilet seat froze, it was too cold to wash. Mr. Coleman stated that this had been an issue since October. When Mr. Coleman and his cellmate complained, they were told that the heat was on a timer. On January 10, 2014, nearly a month later, the grievance counselor responded that a work order was submitted on the issue.

69. On May 15, 2014, Mr. Coleman filed a grievance alleging that his personal property had been stolen while he was in segregation, including money from his commissary fund. Mr. Coleman attached grievances from July 2013, while he was in segregation, requesting to be assured that his personal property was not taken because the proper procedures had not been filed in logging his property. The grievance counselor responded that inmates receive copies of receipts of their commissary fund purchases and that the other property issues raised were untimely. On September 30, 2014, the ARB filed a response denying the appeals of the grievances because they were not submitted within the proper timeframe. This decision seems to

have been directed at the July 2013 grievances that Mr. Coleman submitted as exhibits to his May grievance, and does not address the stolen or misplaced property.

70. On June 8, 2014, Mr. Coleman filed a grievance alleging that he had underwent the colectomy in 2009 because prison doctor Dr. Singer had told him that it would be reversed after three to six months. It had been over five years, and the doctors had refused to reverse the procedure and remove the colostomy bag. Mr. Coleman requested that the prison doctors reverse the procedure to the mental and physical pain he was suffering because of it. Mr. Coleman attached the August 21 grievance detailing the fall he had experienced in the shower that came about as a result of the officers' treatment of him due to the colostomy bag. The grievance counselor did not appear to respond to this grievance. On September 23, 2014, the ARB denied the grievance as untimely. The denial seemed to stem from the fact that Mr. Coleman had attached the earlier grievance, which had been meant merely as an exhibit to further explain his complaint. The ARB decision did not address Mr. Coleman's medical issues.

71. Mr. Coleman has stated that his time in segregation has made his anger problems worse. Actions by the officers such as refusing to bring his wheelchair so that he can get to the shower have scarred and frightened Mr. Coleman psychologically. Mr. Coleman felt that he was doing better emotionally and psychologically before he suffered through segregation, but that things have since been much worse. Mr. Coleman now meets with a psychologist to deal with anger issues which have been exacerbated by his time in segregation.

Aaron Fillmore

72. Mr. Fillmore is currently incarcerated at Lawrence Correctional Center and is currently in segregation. During the past 15 years, Mr. Fillmore has continuously been either in segregation, Administrative Detention, or Investigate Status, all of which are ultimately extreme

isolation. In segregation, Mr. Fillmore has had little to no physical contact with other people and has suffered mentally as a result.

73. Mr. Fillmore was originally placed in extreme isolation 15 years ago when he was transferred from Stateville Correctional Center to Tamms Correctional Center after an incident in which he and another prisoner were alleged to have non-fatally injured a guard. Although Mr. Fillmore pled guilty and received an additional sentence as a result, he also received indeterminate segregation at that time.

74. Despite an almost spotless disciplinary record since that alleged incident 15 years ago for which Mr. Fillmore has already been punished, he has continuously remained in extreme isolation with no hope of being placed back in the general population. Mr. Fillmore was eventually transferred to Lawrence Correctional Center.

75. Mr. Fillmore reported that at Lawrence Correctional Center, inmates on Administrative Detention status are double-celled, often with mentally ill inmates. Inmates in extreme constantly yell, kick doors, and make noise 24 hours a day, 7 days a week due to the lack of mental and physical activity. Also inmates who have spent 90 days or more in extreme isolation are denied their weekly five hours of exercise and instead are only allowed a single-person cage in the yard twice each week for one or two hours. If he needs a pass to go somewhere, for example, the health care unit, he has to forfeit his entire time in the yard outside.

76. There are no religious programs in extreme isolation and the chaplain does not visit inmates in extreme isolation. Mr. Fillmore has been denied books, catalogs, newspapers, and other materials from the library in addition to his other personal property, including legal materials and gloves in winter, even while on Administrative Detention status. Blankets are only

washed every three months and he is only allowed one brief shower each week. Mr. Fillmore reported an incident of another inmate in extreme isolation committing suicide.

77. Mr. Fillmore has suffered mentally as a result of long-term extreme isolation. He recently reported in a grievance that the double-celling of inmates in Administrative Detention status threatens his mental health because he has spent so much time in extreme isolation. Mr. Fillmore reported that double-celling would cause irreparable harm to his mental state. Mr. Fillmore reported that "due to long-term isolation, I suffer from serious mental health issues which are not being treated due to prison officials' deliberate indifference to my mental state."

78. Mr. Fillmore has filed at least 25 grievances since he was placed in segregation. Many of those grievances seek relief from his continuous placement in extreme isolation, as well as the conditions of segregation and lack of due process. At least five of the grievances have been denied by the ARB, demonstrating that Mr. Fillmore exhausted his remedies by appealing the denials as far as he could. At least 10 of Mr. Fillmore's grievances that were properly and timely never received a response from the ARB. Mr. Fillmore wrote a letter to the ARB on January 11, 2015, about the grievances that have not been answered. The ARB's lack of response to those grievances has denied Mr. Fillmore the ability to exhaust those grievances to which the ARB simply did not respond. Mr. Fillmore did all he could to appeal those grievances as far as he could despite the lack of response from the ARB.

79. On July 27, 2007, Mr. Fillmore filed a grievance stating that the disciplinary report accusing him of having contraband was fabricated, that at the hearing his evidence was denied admittance, that the grievance officer did not review any evidence, and that his witnesses were not called—thus he was denied due process. On November 11, 2007, he received a

response from the ARB that his grievance would be addressed without a hearing. The ARB confirmed the offenses and denied the grievance.

80. On June 12, 2013, Mr. Fillmore filed a grievance requesting that a disciplinary report, which resulted in more time in extreme isolation, be expunged, reheard by the committee, and exonerating evidence be reviewed. On June 10, 2014, Mr. Fillmore received a response from the ARB denying his grievance finding no violation of due process and was reasonably satisfied that Mr. Fillmore committed the offense in the report.

81. On July 7, 2013, Mr. Fillmore filed a grievance about his transfer from Tamms Correctional Center to Pontiac Correctional Center on Administrative Detention status and without any review of his Administrative Detention and with no opportunity to defend against his continuous stay in Administrative Detention. On June 25, 2014, Mr. Fillmore received a response from the ARB denying his grievance and stating that the issue was addressed by the facility.

82. On November 12, 2013, Mr. Fillmore filed a grievance because he was transferred from Pontiac Correctional Center to Lawrence Correctional Center in Administrative Detention status with no information as to why he was being transferred nor a hearing. Mr. Fillmore's Administrative Detention status was also not being reviewed. His grievance requested that IDOC provide him with an Administrative Detention hearing and review of his Administrative Detention status, that he be provided a reason for transfer, a rule book, and that he be transferred out of Lawrence Correctional Center and released from Administrative Detention status, or at the very least given all Administrative Detention rights and privileges. On June 5, 2014, Mr. Fillmore's counselor responded that the IDOC can assign offenders to any institution it wants and all privileges and amenities with its decision are an administrative

decision. Further, the counselor reported that Administrative Detention status was reviewed, but Mr. Fillmore does not have a right to be present during that review. Mr. Fillmore received a response to this grievance from the ARB on December 8, 2014, denying his grievance and stating that his grievance was appropriately addressed by the facility.

83. In 2014, Mr. Fillmore was sentenced to yet another 365 days in extreme isolation, despite an almost spotless disciplinary record in recent years. The reason was for alleged gang activity based on a series of telephone calls he allegedly made and from letters he allegedly wrote. The IDOC claimed these messages and calls contained coded gang instructions. Despite Mr. Fillmore's requests for the IDOC to review his phone records to show that he did not make the calls on the dates alleged, the IDOC has refused to produce that information. The IDOC has likewise refused to produce the letters allegedly containing coded gang messages. Mr. Fillmore pled not guilty to the charge of gang activity and without being afforded an opportunity to review any phone records or alleged letters, the IDOC sentenced him to 365 more days in extreme isolation. Mr. Fillmore remains in extreme isolation, with no idea or hope as to what he can do to be released or as to when he will be released back into the general population. As a result of this extreme isolation, Mr. Fillmore continues to suffer great mental anguish.

Jerome Jones

84. Mr. Jones is currently in Administrative Phase III detention segregation at Lawrence Correctional Center, after being transferred from Stateville Correctional Center in August 2013. Mr. Jones was removed from general population at Stateville on July 25, 2013, for reasons unknown to him at the time. Mr. Jones has had no disciplinary tickets since 2001.

85. Mr. Jones is Muslim and is a member of the Moorish Science Temple of Americas. He is not a member of any gangs or organizations which promote violence. He is active in promoting a peaceful, non-violent culture at the prison.

86. On August 1, 2013, Mr. Jones filed a grievance after being removed from general population at Stateville. In his grievance, Mr. Jones noted that he was not informed to why he was placed in segregation and removed from general population in July 2013 to Administrative Detention. Around seven to eight months later, Mr. Jones was informed during a face-to-face review that he was put in segregation due to his active involvement in a gang. Mr. Jones denied any association with a gang during his time at Stateville or during his time in Lawrence, but has never been given a meaningful opportunity to review the evidence against him, or present any evidence in his defense.

87. In segregation, Mr. Jones lost audio-visual privileges. Mr. Jones further experienced decreased access to property, phones, recreation time, showers, and law library time. The August 1, 2013 grievance was addressed without a formal hearing by the Administrative Review Board on March 3, 2014. Without addressing why he was placed in segregation or his decreased access to inmate privileges in segregation, the Administrative Review Board ruled that he was permitted personal property "as approved by the CAO while in administrative detention."

88. On February 13, 2014, Marc Hodge, Warden of the Lawrence Correctional Center, wrote a memorandum to Mr. Jones that he was being moved to Administrative Phase III detention based on a review of February 5, 2014.

89. Over a year later, Mr. Jones is still in Administrative Detention, which only permits television or radio with CAO approval. Further, Mr. Jones is isolated and may only eat meals in his cell. He is only permitted showers twice a week and recreation six hours a week,

decreased time from general population inmates. While inmates in general population may have six visits a month, Mr. Jones is only permitted four no-contact, pre-approved two-hour visits "as security measures allow." Mr. Jones has now been in Phase III for over a year with no disciplinary problems. He has no idea what he can do to obtain release from Administrative Detention. Mr. Jones suffers in his loss of inmate privileges and from his continued, never-ending isolation. He remains in administrative detention, segregated from not only the general population, but from all meaningful social contact.

Risk of Ongoing Harm to Named Plaintiffs and the Class

90. The Plaintiffs and class members are incarcerated in Illinois prison facilities governed by uniform disciplinary policies and customs. Incarcerated 24 hours a day, Plaintiffs and class members are in nonstop contact with corrections officers charged with broad discretion to enforce a list of approximately 50 vague internal prison disciplinary regulations, the majority of which can be classified as relatively minor offenses. Plaintiffs and class members may be charged with an infraction, convicted, and sentenced to segregation for any reason, or for no legitimate reason at all.

91. As a matter of policy and custom, extraordinarily long and severely disproportionate extreme isolation sentences are often imposed on mere misunderstandings between prisoners and corrections officers or for good-faith mistakes in complying with one of IDOC's numerous regulations. Moreover, prisoners can be, and are, sentenced to segregation for mere hesitation in immediately complying with a correctional officer's order—a risk particularly significant for prisoners with mental health diagnoses, which make it more difficult to comply with correctional officers' demands instantaneously. Since IDOC's policies and customs permit the contested testimony of a single corrections officer to be sufficient evidence of a disciplinary conviction, prisoners are often at risk of long-term segregated confinement for doing nothing

culpable at all. Once a prisoner is accused by a correctional officer of committing a disciplinary infraction, it is a near certainty that the prisoner will be convicted, and it is more likely than not that extreme isolation will be imposed as punishment.

92. Moreover, IDOC's policies and customs advocate the imposition of extreme isolation sanctions when the prisoner's disciplinary hearing includes prior misbehavior reports and isolation sentences. Thus, prisoners who have previously spent time in extreme isolation—which constitutes an astounding percentage—are at particular risk of being subjected to further segregation sentences, which are often entirely disproportionate to the underlying misbehavior.

93. Finally, every person in an IDOC prison is at risk of being placed in long-term solitary without being charged with any misconduct at all under either Investigative Segregation status or Administrative Detention status, neither of which require a formal charge or a meaningful hearing.

94. In addition, segregated confinement causes many prisoners to experience serious psychological and neurological harms which result in, among other things, loss of impulse control, depersonalization, and rage. These adverse effects may cause the prisoner to engage in atypical acts that IDOC staff will respond to with additional extreme isolation sanctions. In addition, segregated confinement causes severe depression and lethargy in many prisoners—effects which may subject prisoners to additional extreme isolation sanctions for failing to promptly obey orders.

95. The substantial and real risk of future segregation sentences for all incarcerated individuals as a result of IDOC's policies and customs is exemplified by the unending and continuous segregation of Mr. Fillmore and Mr. Jones with no apparent end or *meaningful* review of their segregation status. Further, Mr. Fillmore and Mr. Jones may face additional time

in segregation that they may be forced to withstand at an officer's discretion for any future misbehavior, no matter how minor.

96. The IDOC policies and customs outlined in this complaint are uniformly applicable to Plaintiffs and the class, cause ongoing and systemic violations of clearly established rights afforded under the United States Constitution, and put all current and future prisoners at risk of future unjustified segregated confinement and constitutional rights violations.

CLASS ACTION ALLEGATIONS

97. Pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), Plaintiffs will seek to certify a class of all current and future prisoners under the jurisdiction of the Illinois Department of Corrections to obtain declaratory and injunctive relief. All class members face a substantial risk of receiving arbitrary, disproportionate, harmful, and unjustified extreme isolation sentences as a result of IDOC's policies and customs in violation of the United States Constitution.

98. All four of Rule 23(a)'s requirements are satisfied:

a. *Numerosity*: Joinder of all class members is impracticable because of the size of the class. There are approximately 9,700 individuals held in IDOC maximum security facilities—with approximately 1,300 confined in segregation at any given time—and all face a substantial risk of being subject to an unconstitutional segregation sentence as a result of Defendant's system-wide policies and customs. There are almost 40,000 other prisoners housed in minimum and medium security prisons, any one of which could be charged with a disciplinary infraction at any time, or could be placed in Investigative Segregation or Administrative Detention at any time with no charge at all.

b. *Commonality*: There are questions of law and fact common to all class members, including, but not limited to, whether Defendant's policies and procedures have resulted in and continue to result in the imposition of extreme isolation sentences in violation of the class members' Eighth and Fourteenth Amendment rights.

c. *Typicality*: The claims of the class representatives are typical of those of the class members. All Plaintiffs—class representatives and class members—are individuals who have been or are currently transferred from general prison population into segregation. All face substantial risk of receiving extreme isolation sentences in violation of their constitutional rights as a result of the challenged policies and procedures.

d. *Adequacy of Representation*: The class representatives and class counsel will fairly and adequately represent the interests of the class. The named Plaintiffs are committed to obtaining declaratory and injunctive relief, which will benefit themselves and the class by abating the risk of constitutional harm caused by Defendant's current policies and customs, and their interests in this matter are not antagonistic to those of other class members. Class counsel has many years of experience with class action and civil rights litigation.

99. A class seeking class-wide declaratory and injunctive relief is properly certified under Federal Rule of Procedure 23(b)(2) because Defendant has acted, and refused to act, on grounds generally applicable to the class as a whole.

CLAIMS FOR RELIEF
FIRST CAUSE OF ACTION:

Injunctive Relief for the Named Plaintiffs and the Class Members Against Defendant Acting Director Gladyse C. Taylor for Violations of the Eighth and Fourteenth Amendments to the United States Constitution

100. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein. As a result of the foregoing policies and customs authorized and maintained by Defendant Taylor, the named Plaintiffs and class members have suffered and continue to suffer extreme isolation sentences imposed in violation of the Eighth and Fourteenth Amendments' protection against cruel and unusual punishment. In addition, the extremely cramped, ancient, airless, filthy cells in which prisoners in extreme isolation are housed deprive plaintiffs and the plaintiff class of basic human needs, and inflict needless mental and physical injuries. Defendant has violated prisoners' basic human dignity and their right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the United States Constitution.

Deprivation of Basic Human Needs

101. Specifically, Defendant has deprived Plaintiffs and the class of the minimal civilized measure of life's necessities. The cumulative effects of extremely prolonged confinement in tiny cages, without meaningful access to human contact and physical activity, constitute serious deprivation of basic human needs. Extreme prolonged deprivation of these basic needs is currently imposing and will continue to impose serious psychological pain and suffering and permanent psychological and physical injury on Plaintiffs and on the class they represent. Defendant has been deliberately indifferent to this pain and suffering caused by extreme isolation that they inflict on Plaintiffs and the class. Plaintiffs and members of the putative class therefore seek declaratory and injunctive relief remedying these ongoing and systemic constitutional violations.

Disproportionate Punishment

102. Moreover, as a result of the foregoing policies and customs authorized and maintained by the Defendant, the named Plaintiffs and class members have suffered punishment disproportionate to any infraction that they may have committed. No legitimate security or other penological interest justifies punishment of extreme isolation for lengthy or indefinite periods of time that have no reasonable relationship to the infraction committed. Such disproportionate sentencing violates the Eighth and Fourteenth Amendments to the United States Constitution. Plaintiffs and members of the putative class therefore seek declaratory and injunctive relief remedying these ongoing and systemic constitutional violations.

SECOND CAUSE OF ACTION:

Declaratory and Injunctive Relief for Named Plaintiffs and the Class Members Against Defendant Acting Director Gladyse C. Taylor for Violations of the Fourteenth Amendment Due Process Clause

103. As a result of the foregoing policies and customs authorized and maintained by Defendant Taylor, the named Plaintiffs and class members have suffered extreme punishment without due process of law in violation of the Fourteenth Amendment's Due Process Clause. The named Plaintiffs and members of the putative class therefore seek declaratory and injunctive relief remedying these ongoing and systemic constitutional violations.

104. Because segregation constitutes a significant and atypical hardship, Plaintiffs and the class members are entitle to meaningful process under the Fourteenth Amendment. Defendant has deprived Plaintiffs and class members of a liberty interest without due process of law by denying them meaningful notice of the potential segregation sentencing ranges and what types of offenses may result in more or less severe classifications and punishments. Plaintiffs are also being denied adequate and meaningful hearings to adjudicate and determine their guilt as well as subsequent reviews of their long-term and often indefinite segregation sentences.

REQUESTS FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that the Court:

a. Declare that Defendant's acts and omissions violated Plaintiffs' and the class members' rights under the Eighth and Fourteenth Amendments to the United States Constitution and that these acts and omissions continue to cause ongoing violations of these rights;

b. Enter preliminary and permanent injunctive relief, requiring Defendant Acting Director Gladyse C. Taylor, as well as her officers, agents, servants, employees, and any other person who acted in concert or who participated in the imposition and enforcement of segregation sentences at IDOC facilities, to end the ongoing constitutional violations described above by implementing and conforming with the below standards, the language of which is modeled after the ABA Standards for Criminal Justice (Third Edition), Treatment of Prisoners (2010);

Standard 23-2.6 Rationales for Segregated Housing:

a) Correctional authorities shall not place prisoners in segregated housing except for reasons relating to: discipline, security, ongoing investigation of misconduct or crime, protection from harm, medical care, or mental health care. Segregated housing shall be for the briefest term and under the least restrictive conditions practicable and consistent with the rationale for placement and with the progress achieved by the prisoner. Segregation for health care needs shall be in a location separate from disciplinary and long-term segregated housing. Policies relating to segregation for whatever reason

shall take account of the special developmental needs of prisoners under the age of eighteen.

b) If necessary for an investigation or the reasonable needs of law enforcement or prosecuting authorities, correctional authorities shall be permitted to confine a prisoner under investigation for possible criminal violations in segregated housing for a period no more than 30 days.

Standard 23-2.7 Rationales for Long-term Segregated Housing:

a) Correctional authorities shall use long-term segregated housing sparingly and shall not place or retain prisoners in such housing except for reasons relating to:

    i. discipline after a finding that the prisoner has committed a very severe disciplinary infraction, in which safety or security was seriously threatened;

    ii. a credible continuing and serious threat to the security of others or to the prisoner's own safety; or

    iii. prevention of airborne contagion.

b) Correctional authorities shall not place a prisoner in long-term segregated housing based on the security risk the prisoner poses to others unless less restrictive alternatives are unsuitable in light of a continuing and serious threat to the security of the facility, staff, other prisoners, or the public as a result of the prisoner's:

    i. history of serious violent behavior in correctional facilities;

ii. acts such as escapes or attempted escapes from secure correctional settings;

iii. acts or threats of violence likely to destabilize the institutional environment to such a degree that the order and security of the facility is threatened;

iv. membership in a security threat group accompanied by a finding based on specific and reliable information that the prisoner either has engaged in dangerous or threatening behavior directed by the group or directs the dangerous or threatening behavior of others; or

v. incitement or threats to incite group disturbances in a correctional facility.

Standard 23-2.8 Segregated Housing and Mental Health:

a) No prisoner diagnosed with serious mental illness shall be placed in long-term segregated housing.

b) No prisoner shall be placed in segregated housing for more than 1 day without a mental health screening, conducted in person by a qualified mental health professional, and a prompt comprehensive mental health assessment if clinically indicated. If the assessment indicates the presence of a serious mental illness, or a history of serious mental illness and decompensation in segregated settings, the prisoner shall be placed in an environment where appropriate treatment can occur. Any prisoner in segregated housing who develops serious mental illness shall be placed in an environment where appropriate treatment can occur.

c) The mental health of prisoners in long-term segregated housing shall be monitored as follows:

   i. Daily, correctional staff shall maintain a log documenting prisoners' behavior.

   ii. Several times each week, a qualified mental health professional shall observe each segregated housing unit, speaking to unit staff, reviewing the prisoner log, and observing and talking with prisoners who are receiving mental health treatment.

   iii. Weekly, a qualified mental health professional shall observe and seek to talk with each prisoner.

   iv. Monthly, and more frequently if clinically indicated, a qualified mental health professional shall see and treat each prisoner who is receiving mental health treatment. Absent an individualized finding that security would be compromised, such treatment shall take place out of cell, in a setting in which security staff cannot overhear the conversation.

   v. At least every 90 days, a qualified mental health professional shall perform a comprehensive mental health assessment of each prisoner in segregated housing unless a qualified mental health professional deems such assessment unnecessary in light of observations made pursuant to subdivisions (ii)-(iv).

Standard 23-2.9 Procedures for Placement and Retention in Long-term Segregated Housing:

a) A prisoner shall be placed or retained in long-term segregated housing only after an individualized determination, by a preponderance of the evidence, that the substantive prerequisites set out in Standards 23-2.7 and 23-5.5 for such placement are met. In addition, if long-term segregation is being considered either because the prisoner poses a credible continuing and serious threat to the security of others or to the prisoner's own safety, the prisoner shall be afforded, at a minimum, the following procedural protections:

i. timely, written, and effective notice that such a placement is being considered, the facts upon which consideration is based, and the prisoner's rights under this Standard;

ii. decision-making by a specialized classification committee that includes a qualified mental health care professional;

iii. a hearing at which the prisoner may be heard in person and, absent an individualized determination of good cause, has a reasonable opportunity to present available witnesses and information;

iv. absent an individualized determination of good cause, opportunity for the prisoner to confront and cross-examine any witnesses or, if good cause to limit such confrontation is found, to propound questions to be relayed to the witnesses;

v. an interpreter, if necessary for the prisoner to understand or participate in the proceedings;

vi. if the classification committee determines that a prisoner is unable to prepare and present evidence and arguments effectively on his or her

own behalf, counsel or some other appropriate advocate for the prisoner;

vii. an independent determination by the classification committee of the reliability and credibility of confidential informants if material allowing such determination is available to the correctional agency;

viii. a written statement setting forth the evidence relied on and the reasons for placement; and

ix. prompt review of the classification committee's decision by correctional administrators.

b) Within 30 days of a prisoner's placement in long-term segregated housing based on a finding that the prisoner presents a continuing and serious threat to the security of others, correctional authorities shall develop an individualized plan for the prisoner. The plan shall include an assessment of the prisoner's needs, a strategy for correctional authorities to assist the prisoner in meeting those needs, and a statement of the expectations for the prisoner to progress toward fewer restrictions and lower levels of custody based on the prisoner's behavior. Correctional authorities shall provide the plan or a summary of it to the prisoner, and explain it, so that the prisoner can understand such expectations.

c) At intervals not to exceed 30 days, correctional authorities shall conduct and document an evaluation of each prisoner's progress under the individualized plan required by subdivision (b) of this Standard. The evaluation shall also consider the state of the prisoner's mental health; address the extent to which

the individual's behavior, measured against the plan, justifies the need to maintain, increase, or decrease the level of controls and restrictions in place at the time of the evaluation; and recommend a full classification review as described in subdivision (d) of this Standard when appropriate.

d) At intervals not to exceed 90 days, a full classification review involving a meeting of the prisoner and the specialized classification committee shall occur to determine whether the prisoner's progress toward compliance with the individual plan required by subdivision (b) of this Standard or other circumstances warrant a reduction of restrictions, increased programming, or a return to a lower level of custody. If a prisoner has met the terms of the individual plan, there shall be a presumption in favor of releasing the prisoner from segregated housing. A decision to retain a prisoner in segregated housing following consideration by the classification review committee shall be reviewed by a correctional administrator, and approved, rejected, or modified as appropriate.

e) Consistent with such confidentiality as is required to prevent a significant risk of harm to other persons, a prisoner being evaluated for placement in long-term segregated housing for any reason shall be permitted reasonable access to materials considered at both the initial and the periodic reviews, and shall be allowed to meet with and submit written statements to persons reviewing the prisoner's classification.

f) Correctional officials shall implement a system to facilitate the return to lower levels of custody of prisoners housed in long-term segregated housing. Except

in compelling circumstances, a prisoner serving a sentence who would otherwise be released directly to the community from long-term segregated housing shall be placed in a less restrictive setting for the final months of confinement.

Standard 23-3.8 Segregated Housing:

a) Correctional authorities shall be permitted to physically separate prisoners in segregated housing from other prisoners but shall not deprive them of those items or services necessary for the maintenance of psychological and physical wellbeing.

b) Conditions of extreme isolation shall not be allowed regardless of the reasons for a prisoner's separation from the general population. Conditions of extreme isolation generally include a combination of sensory deprivation, lack of contact with other persons, enforced idleness, minimal out-of-cell time, and lack of outdoor recreation.

c) All prisoners placed in segregated housing shall be provided with meaningful forms of mental, physical, and social stimulation. Depending upon individual assessments of risks, needs, and the reasons for placement in the segregated setting, those forms of stimulation shall include:

   i. in-cell programming, which shall be developed for prisoners who are not permitted to leave their cells;

   ii. additional out-of-cell time, taking into account the size of the prisoner's cell and the length of time the prisoner has been housed in this setting;

iii. opportunities to exercise in the presence of other prisoners, although, if necessary, separated by security barriers;

iv. daily face-to-face interaction with both uniformed and civilian staff; and

v. access to radio or television for programming or mental stimulation, although such access shall not substitute for human contact described in subdivisions (i) to (iv).

d) Prisoners placed in segregated housing for reasons other than discipline shall be allowed as much out-of-cell time and programming participation as practicable, consistent with security.

e) No cell used to house prisoners in segregated housing shall be smaller than 80 square feet, and cells shall be designed to permit prisoners assigned to them to converse with and be observed by staff. Physical features that facilitate suicide attempts shall be eliminated in all segregation cells. Except if required for security or safety reasons for a particular prisoner, segregation cells shall be equipped in compliance with Standard 23-3.3(b).

f) Correctional staff shall monitor and assess any health or safety concerns related to the refusal of a prisoner in segregated housing to eat or drink, or to participate in programming, recreation, or out-of-cell activity.

c. Award Plaintiffs reasonable attorneys' fees and costs under 42 U.S.C. § 1988; and

d. Grant any other relief the Court deems necessary and proper.

DATED: June 24, 2015

By: /s/ Kimball R. Anderson
Plaintiffs

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