

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

PLAINTIFFS' REVISED PROPOSED FINDINGS OF FACT

I. GENERAL

1. The profile of the woman prisoner in D.C. is 97% African-American, 85% unemployed, 82% single parent and primary caretaker, 7% sentenced for violent crimes, and 57% sentenced for drug law violations. The women have histories of substance abuse, past sexual and physical abuse, and suffer from severe emotional problems including depression and dependence. (Pl. Exs. 289, 290, 292, 339, 341, 434, 520; Fiester testimony at 2-8 to 2-9; Lancaster testimony at 5-9 to 5-11; Ryan testimony; Minor Dep. Tr. at 24-27; Def. Findings ¶ 18-25).



II. SEXUAL MISCONDUCT AND SEXUAL HARASSMENT

Incidents of Sexual Misconduct

2. There have been "many, many, many" incidents of sexual misconduct between employees and female inmates in the D.C. Department of Corrections (DCDC). (Plaut Dep. Tr. at 151-52; Lancaster testimony at 5-72; Fiester testimony at 2-2 to 2-4).

3. Dr. Fiester based her expert opinion regarding sexual misconduct and sexual harassment in the D.C. Department of Corrections on over 70 allegations of sexual misconduct from the Correctional Treatment Facility (CTF), the Minimum Security Annex (Annex), and the Central Detention Facility (Jail). (Fiester testimony at 2-4, 2-6). At trial Dr. Fiester testified to numerous examples of representative incidents that fall along a continuum of severity. (Fiester testimony at 2-2 to 2-4). Dr. Fiester testified to 18 representative allegations in which she named the specific Jane Doe involved. (Fiester testimony at 2-7, 2-11 to 2-29, 2-31 to 2-38, 2-47 to 2-50, 2-53 to 2-56, 2-123). In addition, Dr. Fiester testified about specific examples of sexual misconduct and sexual harassment in the areas of exchanges of sex for goods, verbal harassment, and invasions of privacy without naming the individual Jane Does involved. (Fiester testimony at 2-26, 2-37, 2-43).

4. A pattern of sexual misconduct and sexual harassment exists in the D.C. Department of Corrections. (Fiester testimony at 1-139).

Physical Sexual Conduct

5. DCDC employees use physical force and threats of physical force to make women prisoners engage in sexual activity. (Pl. Exs. 88, 502, 504, 596; Fiester testimony at 2-7 to 2-21; Jane Doe Q testimony at 1-77 to 1-80; Jane Doe W testimony at 1-36 to 1-38; Jane Doe RR testimony at 6-123 to 6-124; Henderson Dep. Tr. at 149-51; McMurtry Dep. Tr. at 64).

6. DCDC employees coerce women prisoners into engaging in sexual activity through the use of threats, including threats of escape reports and disciplinary reports. (Pl. Ex. 68; Fiester testimony at 2-15 to 2-18; Jane Doe OO testimony at 1-100, 1-102 to 1-106; Krull Dep. Tr. at 146-49).

7. DCDC employees coerce women prisoners into having sexual contacts in exchange for goods and favors, including cigarettes, money, candy, food, and preferential treatment. (Fiester testimony at 2-23 to 2-24, 2-26, 2-28; Jane Doe P testimony at 4-39 to 4-41; Jane Doe Q testimony at 1-87 to 1-88; Jane Doe OO testimony at 1-100, 1-102 to 1-106; Jane Doe RR testimony at 6-138 to 6-140; Derr (II) Dep. Tr. at 75; Y. Jackson Dep. Tr. at 57-59, 137-39; Jones Dep. Tr. at 23-32).

8. DCDC employees initiate and engage in inappropriate sexual activity with women prisoners. (Pl. Exs.

80, 83, 85, 98, 104, 502, 506, 657; Fiester testimony at 2-31 to 2-32; Jane Doe K testimony at 6-103, 6-108 to 6-109, 6-113 to 6-115; Jane Doe P testimony at 4-42, 4-49; Jane Doe Q testimony at 1-87 to 1-88; Jane Doe W testimony at 1-36 to 1-38; Jane Doe OO testimony at 1-100, 1-102 to 1-106; Jane Doe RR testimony at 6-138 to 6-140; Braxton Dep. Tr. at 58-59; Brummell Dep. Tr. at 14, 21, 85; Derr (II) Dep. Tr. at 78, 81, 88-89; Gilmore Dep. Tr. at 216; Y. Jackson Dep. Tr. at 57-59, 73-74, 118-20, 137-39, 143-45, 147, 150-51; Jones Dep. Tr. at 113, 159-64, 167-79; Krull Dep. Tr. at 233, 263; Perry Dep. Tr. at 166-68; Plaut Dep. Tr. at 162-63; Ray (II) Dep. Tr. at 125-26; Riddick Dep. Tr. at 199; Smith Dep. Tr. at 200-10).

9. DCDC employees allow women prisoners to have sexual relations with other residents. (Jane Doe K testimony at 6-102; Y. Jackson Dep. Tr. at 67-70; Jones Dep. Tr. at 149-54).

10. DCDC employees touch women prisoners in an inappropriate and unwanted sexual manner. (Pl. Exs. 69, 73, 10, 596; Fiester testimony at 2-34 to 2-35; Jane Doe K testimony at 6-105 to 6-107, 6-110, 6-113; Jane Doe Q testimony at 1-77 to 1-78; Jane Doe W testimony at 1-36 to 1-37; Jane Doe Z testimony at 7-64; Jane Doe OO testimony at 1-113; Brummell Dep. Tr. at 85; Gilmore Dep. Tr. at 202; Jones Dep. Tr. at 137, 140-41).

11. DCDC employees expose their bodies to women prisoners. (Pl. Ex. 69; Fiester testimony at 2-36; Jane Doe P testimony at 4-54).

12. DCDC employees encourage or coerce women prisoners to "flash" for them and to expose their bodies to employees. (Pl. Exs. 84, 88; Fiester testimony at 2-35 to 2-37; Jane Doe P testimony at 4-55).

13. Defendants are aware that physical sexual contact occurs between DCDC employees and women prisoners. (Pl. Exs. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Jane Doe K testimony at 6-108; Jane Doe P testimony at 4-45 to 4-46; Jane Doe RR testimony at 6-141 to 6-143; Braxton Dep. Tr. at 57-60; Brummell Dep. Tr. at 13-104, 68-82; Henderson Dep. Tr. at 93-94, 127-67; P. Jackson Dep. Tr. at 152-56; Y. Jackson Dep. Tr. at 23-156; Jones Dep. Tr. at 21-47, 110-88; Krull Dep. Tr. at 232-49, 269-70; McMurtry Dep. Tr. at 119-26, 260-65; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 151-52; Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at 199-200, 202-04, 208-16; Roach Dep. Tr. at 108-14; Welch Dep. Tr. at 62-67, 79-82).

14. Women prisoners can never consent to physical sexual contact with employees due to the extreme positions of power employees have over women prisoners, coupled with the fact that women prisoners are completely dependent upon the employees for their care, well-being, and security. (Fiester testimony at 1-44 to 1-45; Lancaster testimony at 5-62; Y.

Jackson Dep. Tr. at 81-82; Krull Dep. Tr. at 201; McMurtry Dep. Tr. at 232; Minor Dep. Tr. at 123-24; Perry Dep. Tr. at 175; Roach Dep. Tr. at 102).

Verbal Sexual Comments

15. Women prisoners at CTF, the Annex, and the Jail are subjected to inappropriate verbal sexual comments, advances and propositions by DCDC employees in every aspect of their incarceration. (Pl. Exs. 67, 72, 74-78, 82, 84, 101; Fiester testimony at 2-37 to 2-39; Jane Doe V testimony at 4-66 to 4-68; Jane Doe VII testimony at 4-123 to 4-126; Jane Doe K testimony at 6-115; Jane Doe P testimony at 4-54, 4-56; Jane Doe Q testimony at 1-88; Jane Doe W testimony at 1-55; Jane Doe OO testimony at 1-116; Jones Dep. Tr. at 144; Y. Jackson Dep. Tr. at 57; Stempson Dep. Tr. at 170-72).

16. Defendants are aware that women prisoners at CTF, the Annex, and the Jail are subjected to inappropriate verbal sexual comments, advances and propositions by DCDC employees in every aspect of their incarceration. (Pl. Exs. 67, 72, 74-78, 82, 84, 101; Lancaster testimony at 5-62; Jane Doe OO testimony at 1-116 to 1-117; Jones Dep. Tr. at 144; Y. Jackson Dep. Tr. at 57; Stempson Dep. Tr. at 168-72).

17. Women prisoners at the Annex are subjected to unwelcome and inappropriate verbal sexual comments, advances and propositions by male inmates and DCDC employees in Industries at the Central Facility. (Fiester testimony at 2-34 to 2-35; Lancaster testimony at 5-75; Jane Doe K testimony

at 6-112 to 6-114; Jane Doe Z testimony at 7-69 to 7-70; Jane Doe OO testimony at 1-112 to 1-114; Derr (II) Dep. Tr. at 88-90; Gibbons Dep. Tr. at 92-111; Stempson Dep. Tr. at 133).

18. Defendants' employees witness and are aware that women prisoners are subjected to inappropriate verbal sexual comments, advances and propositions by male inmates at Minimum. (Fiester testimony at 2-38; Lancaster testimony at 5-79; Jane Doe OO testimony at 1-117 to 1-118; Y. Jackson Dep. Tr. at 157-58; Gilmore Dep. Tr. at 205-06).

Invasion of Privacy

19. Defendants fail to prevent the invasion of women residents' privacy. (Fiester testimony at 2-42 to 2-44; Jane Doe II testimony at 3-15 to 3-17).

20. Male employees frequently enter the women's living areas without announcing their presence in contravention of Defendants' internal policy. (Fiester testimony at 2-43; Jane Doe II testimony at 3-16; Jane Doe W testimony at 1-56 to 1-58; Y. Jackson Dep. Tr. at 32-33, 44).

21. Male employees frequently view the female residents without clothing as a result of their failure to announce their presence in the women's living areas. (Pl. Ex. 330; Fiester testimony at 2-43; Jane Doe W testimony at 1-56 to 1-58). Male officers also peep through the windows of women's rooms to view the women in stages of undress. (Fiester testimony at 2-43).

22. Male residents are able to view the interior of women's housing areas at CTF from the recreation yard and from their cells. (Pl. Ex. 330; Fiester testimony at 2-89; Jane Doe II testimony at 3-16 to 3-17; Riddick Dep. Tr. at 218-19).

Environment

23. Sexual misconduct, sexual harassment and invasions of privacy are severe and pervasive and create a hostile, sexualized environment at CTF, Minimum, and the Jail. (Fiester testimony at 2-58 to 2-61; Lancaster testimony at 5-77 to 5-82; Minor Dep. Tr. at 15-22, 94-124, 126-29; Ray (II) Dep. Tr. at 111-12; 132-34).

24. Sexual misconduct and sexual harassment create a "toxic psychological environment" in which women prisoners are forced to live. (Fiester testimony at 1-140).

25. The sexualized environment is characterized by staff morale problems and large numbers of "rumors" regarding ongoing incidents of sexual misconduct that have become accepted as part of the day to day routine and culture at the DCDC facilities where women are housed. One employee at the Annex even heard staff describe CTF as a "brothel." (Lancaster testimony at 5-78). Such acceptance has diffused the professional boundaries and expected behaviors of DCDC employees, which leads to an increase in the numbers of incidents of sexual misconduct. (Lancaster testimony at 5-78; Ray (II) Dep. Tr. at 111-12)

26. The sexualized environment is also characterized by the inappropriate clothing of women inmates on their housing units. DCDC employees allow women on housing units to be inappropriately attired, in contravention of their internal policy, in the presence of male employees, which contributes to a hostile, sexualized environment. (Pl. Exs. 326, 330, 357; Lancaster testimony at 5-80; Fiester testimony at 2-86 to 2-87; Hawkins Dep. Tr. at 151-52; Krull Dep. Tr. at 199; Perry Dep. Tr. at 152). Pregnant women are clothed in discarded aprons from the Jail that resemble hospital gowns that do not adequately cover their bodies. (Lancaster testimony at 5-80 to 5-81).

27. At the Annex, the constant harassment of the women prisoners on their way to the dining hall at Minimum also contributes to the hostile environment for women. Defendants permit male inmates at Minimum to stand behind a yellow line painted on the ground while women walk down the hill for daily meals. The men shout obscenities, inappropriate sexual remarks, sexual propositions, and ogle the women from behind the yellow line. (Lancaster testimony at 5-79; Fiester testimony at 2-38; Jane Doe OO testimony at 1-117; Gilmore Dep. Tr. at 205-06; Y. Jackson Dep. Tr. at 157-58). Male correctional officers at the Minimum compound encourage the behavior of the male inmates by laughing and making no effort to stop the harassment of women prisoners. (Jane Doe OO testimony at 1-117 to 1-118).

Effect on Women

28. Defendants are aware that incarcerated women as a population generally have low self esteem and a high incidence of depression, and that many women prisoners have experienced rape, sexual assault, or sexual abuse prior to being incarcerated. (Fiester testimony at 2-8 to 2-9; Lancaster testimony at 5-10; Def. Findings ¶ 19-20; McMurtry Dep. Tr. at 137-41).

29. The sexualized environment and sexual contact between DCDC employees and women prisoners exacerbates the women's existing low self esteem and depression. (Fiester testimony at 2-57; Jane Doe W testimony at 1-54; Jane Doe OO testimony at 1-106).

30. Women prisoners with histories of rape, sexual abuse, or sexual assault who are subjected to sexual comments, advances, or contacts experience increased depression, guilt, self-blame, anger, and hostility. Additionally, the process of resolving problems related to prior abuse is severely damaged. (Fiester testimony at 2-61; Jane Doe W testimony at 1-54; Jane Doe OO testimony at 1-106).

31. Women prisoners who are not directly subjected to sexual comments or physical contact who observe this behavior may experience psychological distress, including feelings of helplessness and frustration, and may have recurrences of memories of past abuse. (Fiester testimony at 2-56 to 2-57; Jane Doe Z testimony at 7-67).

32. Coerced sexual contact in exchange for goods and preferential treatment encourages and reinforces pathological behavior in women prisoners, including reinforcing the idea that women can use their bodies as commodities and that their value is primarily as sexual objects. (Fiester testimony at 2-59).

33. Sexual assault or rape can cause women prisoners to experience severe depressive and anxiety disorders and significant physical symptoms. (Fiester testimony at 2-57 to 2-58).

Defendants' Response to Sexual Misconduct

34. Defendants fail to adequately address sexual misconduct at CTF, the Annex, and the Jail. (Pl. Exs. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Lancaster testimony at 5-6 to 5-7; Fiester testimony at 2-2; Braxton Dep. Tr. at 57-60; Henderson Dep. Tr. at 93-113; P. Jackson Dep. Tr. at 152-56; Y. Jackson Dep. Tr. at 23-156; Jones Dep. Tr. at 21-47, 122-88; Krull Dep. Tr. at 232-49, 269-70; McCathorine Dep. Tr. at 222-23, 225-26; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 165-66, 171-72, 181-82, Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at 199-200, 202-04, 214-15; Roach Dep. Tr. at 111-14; Welch Dep. Tr. at 62-67, 79-82).

35. "Sexual misconduct is as serious if not the most serious kind of behavior issue of employees" in prison systems. (Lancaster testimony at 5-64).

Policies and Procedures

36. Department Order No. 4030.1D, the Inmate Grievance Procedure (IGP) Policy, outlines the process by which inmates can report complaints to the administration. (Pl. Exs. 117, 120). However, inmates rarely use this process to report serious incidents such as sexual misconduct. (Lancaster testimony at 5-61).

37. Instructions for filing an IGP are not uniformly posted in the institutions. Women are not instructed on how to use the IGP process. Defendants' failure to inform women prisoners about the process restricts the women's access to this procedure for reporting incidents of sexual harassment or sexual misconduct. (Fiester testimony at 2-44 to 2-45; Jane Doe V testimony at 4-70 to 4-71; Jane Doe W testimony at 1-46; Jane Doe RR testimony at 6-128; Krull Dep. Tr. at 230).

38. The existing Inmate Grievance Procedure does not adequately address women's concerns for confidentiality. (Fiester testimony at 2-45; Jane Doe RR testimony at 6-137 to 6-138; Perry Dep. Tr. at 164-65; Plaut Dep. Tr. at 148-49; Riddick Dep. Tr. at 210; Smith Dep. Tr. at 218).

39. The Department of Corrections has no policy that explicitly prohibits sexual assault or sexual harassment of female inmates. (Lancaster testimony at 5-61; Gilmore Dep. Tr. at 197). The personnel policy on the Employee-Inmate Relationship, Department Order No. 3350.1, prohibits undue

familiarity between employees and inmates and states that employees should refrain from having intimate or romantic relationships with inmates. (Pl. Ex. 106). The workplace sexual harassment policy, Department Order No. 3310.4B, applies only to incidents of sexual harassment between employees in the workplace and does not address incidents involving inmates. (Lancaster testimony at 5-61, 5-83; Pl. Exs. 107, 110).

40. Defendants have not clearly defined what behavior constitutes sexual misconduct and sexual harassment with inmates in a way that rank and file employees clearly understand. (Lancaster testimony at 5-7, 5-66). The professional boundaries between DCDC employees and inmates must be very clear and should be precisely conveyed to all employees. (Lancaster testimony at 5-70).

Reporting Sexual Misconduct

41. Defendants' employees routinely receive allegations of sexual misconduct and sexual harassment from women prisoners, but fail to report the allegations. (Lancaster testimony at 5-65; Fiester testimony at 2-45 to 2-48; Jane Doe K testimony at 6-109 to 1-110; Jane Doe Q testimony at 1-80 to 1-82; Jane Doe W testimony at 1-40 to 1-41; Jane Doe Z testimony at 7-68 to 7-69; Jane Doe RR testimony at 6-141; P. Jackson Dep. Tr. 152-56; Y. Jackson Dep. Tr. at 72; McMurtry Dep. Tr. at 240; Perry Dep. Tr. at 161; Welch Dep. Tr. at 62-67, 72). Some employees tell the

women that they must write up an IGP and send it up the chain of command. (Lancaster testimony at 5-65; P. Jackson Dep. Tr. at 152-56; Y. Jackson Dep. Tr. at 72). Other employees advise women prisoners to quit their jobs in order to avoid the harassment or misconduct. (Lancaster testimony at 5-65; Fiester testimony at 2-48; Welch Dep. Tr. at 63-64).

42. Defendants' employees are not uniformly aware of their duty to report incidents of sexual misconduct. (Lancaster testimony at 5-64 to 5-66; Y. Jackson Dep. Tr. at 158-59; Welch Dep. Tr. at 62).

43. Defendants' employees are not uniformly aware of the procedure for reporting incidents of sexual misconduct within the institution. (Lancaster testimony at 5-66; Fiester testimony at 2-45 to 2-48; Elzie Dep. Tr. at 77; Ali Dep. Tr. at 140; Derr (II) Dep. Tr. at 88; Y. Jackson Dep. Tr. at 158-59). Other employees do not trust the investigatory process, and thus fail to report incidents of sexual misconduct. (Lancaster testimony at 5-66; Derr (II) Dep. Tr. at 98; Y. Jackson Dep. Tr. at 161).

Investigating Sexual Misconduct

44. Defendants fail to adequately and consistently investigate reports of sexual misconduct and sexual harassment. (Lancaster testimony at 5-7; Fiester testimony at 2-49; Pl. Exs. 66, 69, 73, 83, 85, 86, 97, 104, 502, 504, 506; Braxton Dep. Tr. at 57-60; Derr (II) Dep. Tr. at 105-06; Hawkins Dep. Tr. at 176-80; Henderson Dep. Tr. at 93-113, 115;

P. Jackson Dep. Tr. at 81-82, 152-56; Y. Jackson Dep. Tr. at 23-156, 161; Jones Dep. Tr. at 21-47, 122-88; Krull Dep. Tr. at 227-28, 232-49, 269-70; McCathorine Dep. Tr. at 222-23, 225-26; Perry Dep. Tr. at 160-75; Plaut Dep. Tr. at 165-66, 171-72, 181-82, Ray (II) Dep. Tr. at 125-30; Riddick Dep. Tr. at 199-200, 202-04, 214-15; Roach Dep. Tr. at 111-14; Welch Dep. Tr. at 62-67, 79-82).

45. No uniform investigatory procedures exist for investigating allegations of sexual misconduct or sexual harassment involving women prisoners. (Lancaster testimony at 5-7, 5-67; Henderson Dep. Tr. at 85; Krull Dep. Tr. at 227).

46. Defendants have not appropriately investigated incidents of sexual misconduct or sexual harassment. (Lancaster testimony at 5-67 to 5-73; Fiester testimony at 2-49; Pl. Exs. 72, 80, 67, 82, 86, 502, 504, 596; Elzie (sealed) Dep. Tr. at 16). Defendants fail to consistently and thoroughly investigate the "many, many, many" allegations of sexual misconduct. (Lancaster testimony 5-7, 5-71; Plaut Dep. Tr. at 151-52).

47. All incidents of sexual misconduct should be reported to the Administrator of the facility. That Administrator has the responsibility to know of all allegations of sexual misconduct and to initiate the appropriate investigation in each instance. (Lancaster testimony at 5-67 to 5-68, 5-70). It is the administrator who

sets the tone and the expectations for the institution for both staff and inmates. (Lancaster testimony at 5-71).

48. The former administrator of CTF, Ms. McCathorine, concerned herself only with the result of an investigation and delegated all responsibility for the investigation itself to Mr. L.C. Jones. (McCathorine Dep. Tr. at 241). Mr. Jones had an allegation of sexual misconduct pending against him. (Fiester testimony at 2-55; Jones Dep. Tr. at 169-70). It is an inappropriate response to appoint an alleged perpetrator of sexual misconduct to investigate incidents of sexual misconduct. (Lancaster testimony at 5-71 to 5-72; McCathorine Dep. Tr. at 229 (administrator cannot make a decision on whether it is appropriate to have Jones investigate allegations of sexual misconduct if he had allegations brought against him)).

49. An investigation into allegations of sexual misconduct should be conducted when there is any hint that a law has been violated; when an inmate says that sexual misconduct has happened to her; when there are allegations of threatening, intimidating language; when the specific name of an inmate is known; when the specific name of an employee is known; when a specific location such as building maintenance or culinary arts is identified; or when the information is the "final piece of the pie" that indicates a cohesive allegation of sexual misconduct. The investigation should be conducted

immediately after receipt of the information. (Lancaster testimony at 5-68 to 5-69).

50. There are excessive delays in the Defendants' investigation and timely resolution of women prisoners' claims of sexual misconduct and sexual harassment. (Lancaster testimony at 5-72; Fiester testimony at 2-126; Jane Doe P testimony at 4-39, 4-57).

51. Defendants routinely fail to investigate, or conduct deficient investigations of, allegations of sexual harassment or sexual misconduct. (Pl. Exs. 68, 80, 84, 85, 91, 98; Fiester testimony at 2-53 to 2-56; Jane Doe K testimony at 6-105 to 6-108; Jane Doe OO testimony at 1-114 to 1-115; Jane Doe RR testimony at 6-141 to 6-145; Brummell Dep. Tr. at 91; Derr (II) Dep. Tr. at 68-71, 75-76; Elzie (sealed) Dep. Tr. at 13-14; Hawkins Dep. Tr. at 176-80; Henderson Dep. Tr. at 164-66; Y. Jackson Dep. Tr. at 67-74, 119-20, 137-39, 143, 148; Jones Dep. Tr. at 31-32, 159-60, 163-64, 167-79; Krull Dep. Tr. at 233, 244-49, 263-68; Plaut Dep. Tr. at 153-58, 182; Riddick Dep. Tr. at 213; Smith Dep. Tr. at 200).

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

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

increases the women's reluctance to report sexual misconduct or sexual harassment. (Fiester testimony at 2-61 to 2-62).

Law Enforcement Agencies

54. Defendants' managerial employees are not uniformly aware of procedures for reporting allegations of sexual misconduct to law enforcement agencies. (Lancaster testimony at 5-73 to 5-74; Henderson Dep. Tr. at 115, 146; McCatharine Dep. Tr. at 243).

55. Sexual misconduct involving force or threats of force are not routinely reported by Defendants to law enforcement agencies. (Pl. Exs. 73, 87, 90, 91, 154, 502; Lancaster testimony at 5-73 to 5-74; Fiester testimony at 2-48; Henderson Dep. Tr. at 161). Such misconduct should be reported to the police at the first belief that the possibility exists that a law has been violated. (Lancaster testimony at 5-73).

56. The former Administrator at CTF, Ms. McCatharine, indicated that she would first conduct an internal investigation before reporting an incident of sexual misconduct to law enforcement officials. (Lancaster testimony at 5-73; McCatharine Dep. Tr. at 243). This is an inappropriate response to handling allegations of sexual misconduct. (Lancaster testimony at 5-73).

57. On the occasion that an incident of sexual misconduct involving force or threats of force is reported to law enforcement agencies, the Defendants often fail to

communicate with the law enforcement agency to stay up to date on the criminal investigation and even fail to ascertain the outcome of the investigation. (Lancaster testimony at 5-72; Jane Doe Q testimony at 1-85 to 1-86; Henderson Dep. Tr. at 95, 146, 151, 156-57).

58. Defendants do not conduct an internal investigation when an allegation of sexual misconduct is referred to a law enforcement agency. (Elzie (sealed) Dep. Tr. at 9; Henderson Dep. Tr. at 149, 156-57). Such a personnel investigation is a required procedure for appropriately handling allegations of sexual misconduct in a prison. (Lancaster testimony at 5-73).

Conclusive Results

59. Defendants routinely fail to reach a conclusion as to whether sexual misconduct or sexual harassment in fact occurred. (Lancaster testimony at 5-74; Pl. Exs. 67, 82, 86, 88, 98, 502, 504, 596; Brummell Dep. Tr. at 95-97; Jones Dep. Tr. at 178-79; Plaut Dep. Tr. at 166; Smith Dep. Tr. at 200; Stempson Dep. Tr. at 169-72). Generally, it is possible to resolve such allegations conclusively in 90% of the cases. (Lancaster testimony at 5-76)

60. Defendants routinely determine that sexual misconduct or sexual harassment has not occurred when the evidence consists of an inmate's word against an employee's word. (Lancaster testimony at 5-72; Pl. Exs. 67, 74-78, 82, 86).

61. Defendants fail to take appropriate disciplinary action to impose sanctions against DCDC employees for sexual misconduct or sexual harassment. (Lancaster testimony at 5-7, 5-74; Pl. Exs. 83, 101, 104, 502; Brummell Dep. Tr. at 68; Henderson Dep. Tr. at 132; Roach Dep. Tr. at 112; Plaut Dep. Tr. at 162, 189). Mr. Plaut, the Associate Director for Operations, testified that once an allegation of sexual misconduct has been referred to a law enforcement agency, a facility cannot discipline the employee unless he is found guilty of a crime. (Plaut testimony). However, conduct can constitute sexual misconduct that violates DCDC policies and regulations regardless of whether the conduct also meets the standards of a criminal act. (Lancaster testimony at 5-73; Fiester testimony at 2-128).

62. Defendants' most common response to allegations of sexual misconduct made by an inmate against an employee is to merely reassign the officer away from women inmates. However, this does not sufficiently sanction any wrongful conduct. This action also creates the impression that nothing can happen to an employee for engaging in such misconduct and discourages inmates from reporting the misconduct. (Lancaster testimony at 5-74 to 5-76).

63. Moreover, Defendants have failed to reassign officers in certain situations that have resulted in continued contact between the inmate and the alleged perpetrator for up

to eight months. (Jane Doe W testimony at 1-36, 1-47 to 1-51; Pl. Ex. 675 (Munoz letter)).

64. Defendants have failed to define the possible sanctions for employees who engage in sexual misconduct, ranging from rape to sexual harassment. (Lancaster testimony at 5-7, 5-67; Pl. Ex. 109). Sexual misconduct requires serious, severe, and consistently adhered to sanctions imposed on employees for violating their professional boundaries, personnel policies, and public trust. (Lancaster testimony at 5-76).

Training

65. Defendants fail to adequately train their employees regarding sexual harassment and sexual misconduct between employees and inmates. (Lancaster testimony at 5-84; Pl. Ex. 356; Riddick Dep. Tr. at 90-92; Stempson Dep. Tr. at 182-83; Welch Dep. Tr. at 76).

66. Defendants offer employees only 1.5 hours on the issue of the employee and inmate relationship during basic training at the beginning of their career with the Department of Corrections. (Pl. Exs. 111, 388). Training in workplace sexual harassment offered for two hours in basic training and as in-service training once a year does not address sexual misconduct involving inmates, but addresses only incidents of sexual harassment between employees in the workplace. (Pl. Exs. 115, 116). The only training specific to female offenders was offered once in May 1992 for the opening of CTF.

(McMurtry Dep. Tr. at 109-13). However, many of the employees who participated in this training were subsequently transferred to work in the substance abuse unit at CTF rather than the women's unit, and future employees assigned to the women's unit were not offered the training. (Lancaster testimony at 5-86).

67. Roll call training is offered to DCDC employees only on the issue of workplace sexual harassment. This training does not include information regarding sexual misconduct involving female inmates. Moreover, training offered for a maximum of ten minutes at the start of an employee's shift is an ineffective way of presenting this serious information to employees. (Lancaster testimony at 5-87).

68. Defendants' failure to adequately train employees in issues regarding sexual misconduct involving female inmates has created an atmosphere where such behavior is tolerated and engaged in by employees. (Lancaster testimony at 5-87 to 5-88; Ray (II) Dep. Tr. at 111-12).

III. MEDICAL CARE

Gynecological Care

Examination and Testing

69. Women prisoners at CTF, as Defendants are aware, are "at risk for a greatly increased incidence of sexually transmitted diseases," such as AIDS, syphilis,

gonorrhoea, and chlamydia; for other gynecological conditions such as breast and cervical cancer; and for developing complications during pregnancy. A study conducted by Defendants revealed that approximately ten percent of all women prisoners are HIV positive. In addition, a review of medical records conducted by Plaintiffs' medical expert, Dr. Major, revealed that in eleven of forty-seven cases, women had positive tests for syphilis. (Pl. Exs. 297, 660, 667; Major testimony at 3-52 to 3-58, 3-60, 3-65, 3-74; Clark testimony; W. Hall Dep. Tr. at 46, 51; McMurtry Dep. Tr. at 152-55; Welch Dep. Tr. at 44-46).

70. Treating a high risk population differs from treating a non-high-risk population in that more frequent testing for, and monitoring of, gynecological conditions is required. As Dr. Major testified: "Intervals of examination should be much shorter, particularly as it refers to prenatal care, but even in cases that aren't connected with pregnancy, these women have to be watched a lot more closely because infections and diseases . . . rapidly develop to advanced stages which make treatment very difficult and cure sometimes unlikely." (Major testimony at 3-58).

71. Contrary to Defendants' own written policies and correctional health care standards, testing for sexually-transmitted diseases is inadequate because it often does not take place within the prescribed period of time after intake or a reasonable time thereafter, and in some instances, does

not take place at all. Thus, even though Defendants have a written policy regarding testing, as Dr. Major testified:

"[A]t CTF this policy is not followed and so, therefore, I'd have to say that the end result is the same as if there was no policy." (Major testimony at 3-59, 3-74, 3-77; Pl. Exs. 561, 563).

72. Defendants' failure to provide adequate testing for sexually-transmitted diseases such as chlamydia, gonorrhea, and syphilis to women prisoners at CTF places these women at an increased risk of sterility, infertility, and even death. For a pregnant woman, failure to provide adequate testing also places her fetus at greater risk of developing eye infections, contracting pneumonia, and impairing the quality of life of the newborn child. (Major testimony at 3-53 to 3-54, 3-74 to 3-76).

73. Defendants do not perform required routine gynecological examinations, such as routine pap smears, on all women within prescribed periods of time. Dr. Major found, for example, that in nine cases there was no documentation that a pap smear had ever been performed. (Major testimony at 3-66 to 3-67; Pl. Ex. 254; Jane Doe II testimony at 2-171 to 2-172; Jane Doe V testimony at 4-93 to 4-96).

74. Nationally-recognized standards of care require Defendants to perform pap smears on women prisoners with AIDS or who are HIV positive at least every 6 months, which Defendants have failed to do. Dr. Major's review of medical

records indicated that of approximately twelve women who were HIV positive whose records he reviewed, in not one instance had pap smears been performed at six-month intervals. (Major testimony at 3-68 to 3-70, 3-73, 3-80).

Treatment and Follow-Up

75. Defendants have repeatedly failed to provide adequate treatment and follow-up of gynecological conditions even though it is Defendants' policy "to provide clinically appropriate periodic health examinations and follow-up care to inmates." (Pl. Exs. 254, 483, 641; Major testimony at 3-73, 3-78, 3-79 to 3-81, 3-81 to 3-83, 3-162; Jane Doe II testimony at 2-158 to 2-173, 3-23 to 3-24, 3-37 to 3-38; Jane Doe V testimony at 4-94 to 4-96; Hawkins Dep. Tr. at 64-65).

76. Adequate follow-up care is important because it may eradicate or at least ameliorate the condition complained of and, if there are recurrences of the condition, adequate follow-up care enables the recurrences to be detected early enough so that treatment is rendered more effective. (Major testimony at 3-77).

77. As a result of Defendants' failure to provide treatment and follow-up gynecological care, Defendants have caused women prisoners to experience unnecessary pain and stress and have increased the women prisoners' risk of developing further complications related to their medical conditions. As Jane Doe II testified: "There's days I don't want to even get out of bed because I don't feel that I can

handle -- I'm just afraid and I'm scared that I'm going to die in prison." (Pl. Ex. 254; Major testimony at 3-85; Jane Doe II testimony at 2-168, 2-175 to 2-176; Jane Doe V testimony at 4-93 to 4-96).

Health Education

78. In contradiction of their own written policies, Defendants provide "grossly inadequate" health education to women prisoners incarcerated at CTF. (Pl. Ex. 570, W. Hall Dep. Tr. at 181-182; Welch Dep. Tr. at 31-32; Major testimony at 3-86 to 3-88; Jane Doe II testimony at 2-172).

79. Defendants do not provide adequate access to contraceptives. (Major testimony at 3-90).

80. Adequate health education encourages prevention and early treatment of gynecological conditions. (Major testimony at 3-88).

81. Health education is particularly important for women incarcerated at CTF because they are at high risk of contracting and/or transmitting sexually-transmitted diseases and developing other gynecological conditions. (Pl. Ex. 667; Major testimony at 3-52 to 3-58, 3-60, 3-65, 3-74; Ali Dep. Tr. at 89).

82. Health education and access to contraceptives are also important because women prisoners are sexually active while incarcerated in Defendants' correctional institutions. (Pl. Exs. 1, 557; Major testimony at 3-88 to 3-91; Jane Doe K testimony at 6-103 to 6-104; Ali Dep. Tr. at 124-25; P.

Jackson Dep. Tr. at 85-86; McCathorine Dep. Tr. at 268-71; Ray (I) Dep. Tr. at 92-98; Taylor Dep. Tr. at 121-22, 153-58).

83. Failure to provide adequate health education puts women prisoners at CTF at increased risk of developing serious gynecological problems. (Major testimony at 3-87 to 3-89).

Abortion Counseling

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

85. Defendants have violated their own policy and have failed to provide adequate abortion counseling to pregnant women. (Pl. Exs. 434, 658; Major testimony at 3-91 to 3-92).

86. Indicative of Defendants' failure to ensure that women receive non-directive counseling is Defendants' decision, approved by then Director Ridley, to allow representatives of the "Sanctity of Life Ministry," an anti-abortion organization, "to assist [Defendants] in providing quality program opportunities for the pregnant inmates in our facilities," believing that organization would have a "major impact" and "would provide quality programming for this population." (Pl. Ex. 658; Krull Dep. Tr. at 159-61; Major testimony at 3-92 to 3-93).

87. Defendants have failed to provide adequate counseling in at least three instances where women indicated

they wanted, and ultimately obtained, an abortion. (Major testimony at 3-91 to 3-92; Welch Dep. Tr. at 61-62).

88. In at least one instance, one woman prisoner at CTF indicated that she wanted an abortion, yet she never obtained one. She never received any counseling concerning the options available to her. She is now approximately nine months pregnant. (Major testimony at 3-91 to 3-92).

Prenatal Care

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

90. Defendants have violated their own policy by failing to provide pregnant women prisoners with adequate prenatal care. Indeed, in December 1993, former CTF administrator G.H. McCathorine referred to "noted deficiencies in pregnant females receiving prenatal care on schedule." (Pl. Ex. 428). And in 1994, Regina Gilmore, Acting Coordinator of the Female Offender Program, further recognized that there is a "lack of gender specific care in the areas of pre-natal and postnatal education and care." (Pl. Exs. 434, 601; Major testimony at 3-93 to 3-116, 3-185 to 3-187; Jane Doe L testimony at 2-135 to 2-136).

91. Defendants are aware that the failure to provide adequate prenatal care and counseling to pregnant women prisoners at CTF increases the risk of infant deformity and mortality; increases the health risks associated with

pregnancy for women; precludes bonding between mother and child; and puts newborn children at greater risk of being placed in inappropriate child care arrangements. (Pl. Exs. 295, 297, 298, 606, 651; Major testimony at 3-100 to 3-102; McCathorine Dep. Tr. at 271-75).

92. Defendants' failure to provide adequate prenatal care and counseling also causes a pregnant woman prisoner at CTF to endure stress unnecessarily because of fear that she and her fetus are not receiving proper care. Such stress is in addition to the general anxiety suffered by women who are pregnant while incarcerated. As the former Chief of Mental Health Services at DCDC has stated: "To experience pregnancy in the harsh environment of incarceration must be considered a most cruel punishment." (Pl. Ex. 297; Jane Doe K testimony at 6-101; McCathorine Dep. Tr. at 271-75; McMurtry Dep. Tr. at 301-02).

Commencement of Prenatal Care

93. Defendants do not commence prenatal care immediately after they have reason to know that a woman prisoner is pregnant. Indeed, some pregnant women have resided at CTF for two months before receiving any prenatal care and in some instances, women prisoners have received virtually no prenatal care. (Major testimony at 3-99 to 3-100; Jane Doe L testimony at 2-134 to 2-136).

94. Commencing prenatal care early in the pregnancy is particularly important because as Dr. Major indicated,

"[t]he earlier the necessity of intervention is determined the easier it is to eradicate or to ameliorate that particular risk of an unfavorable outcome of pregnancy." Common examples of conditions that may arise early in pregnancy, and for which early intervention is necessary, include anemia, hypertension, diabetes, and poor weight gain or poor infant growth. (Major testimony at 3-100 to 3-102).

95. Defendants have also failed to provide pregnant women prisoners with regularly scheduled prenatal check-ups. Jane Doe S4, for example, had to sign up for sick call to attempt to receive prenatal care, stating on the sick call list for April 12, 1993: "I need prenatal care bad." (Pl. Ex. 254; Major testimony at 3-100; Jane Doe K testimony at 6-97; Jane Doe L testimony at 2-134 to 2-138; Jane Doe QQQ testimony at 4-20 to 4-26).

Lack of a Prenatal Protocol

96. One of the most glaring defects in the prenatal care provided to women at CTF is the lack of an adequate written prenatal protocol, which would outline in detail the medical care that pregnant women should receive and the specified times during which they should receive that care. (Pl. Ex. 642; Major testimony at 3-70 to 3-72, 3-94 to 3-96).

97. CTF also does not utilize risk assessment forms, such as PROPRAS forms, which are critical in minimizing maternal and neonatal morbidity and mortality. (Pl. Exs. 642, 667; Major testimony at 3-94 to 3-96; Clark testimony).

98. One of the primary advantages of an adequate prenatal protocol is that, by following an adequate protocol, the risk of unfavorable outcomes of pregnancy is reduced. (Major testimony at 3-107 to 3-108).

99. Dr. Charles Hall, the CTF part-time OB/GYN physician, prepared "prenatal guidelines" at the request of Dr. Eliza Taylor. The "Guidelines for Care of Pregnant Inmates at CTF," are a one-page, seven-sentenced document, prepared subsequent to the filing of Plaintiffs' lawsuit and subsequent to the initial site visit of CTF by Plaintiffs' medical expert. (Pl. Ex. 457; Major testimony at 3-132; C. Hall Dep. Tr. at 121-24).

100. These "guidelines" do not constitute an adequate prenatal protocol. (Pl. Ex. 457; Major testimony at 3-97 to 3-99).

Transportation

101. Transportation to and from D.C. General Hospital is an integral part of the provision of medical care to women prisoners at CTF because most pregnant women prisoners incarcerated at CTF receive their primary prenatal care at D.C. General Hospital, and, in most instances, give birth at D.C. General Hospital. Women prisoners also receive gynecological care at D.C. General Hospital. (Major testimony at 3-102; Jane Doe II testimony at 2-173; Jane Doe K testimony at 6-96; Jane Doe L testimony at 3-138; Jane Doe QQQ testimony at 4-10; C. Hall Dep. Tr. at 111; Jones Dep. Tr. at 63).

102. From the opening of CTF in May 1992 to the present day, Defendants have failed to provide an adequate transportation system for ensuring that women are able to keep their obstetrical and gynecological appointments at D.C. General Hospital, at the Jail, and even within CTF. (Pl. Exs. 59, 389, 394; Major testimony at 3-102 to 3-103, 3-104 to 3-106, 3-163 to 3-166; Jane Doe K testimony at 6-96; Jane Doe QQQ testimony at 4-20 to 4-26).

103. Correctional officers are often not available to transport women to their obstetrical or gynecological appointments. Even when transportation is available, it is often so late that an appointment has to be cancelled or a woman is forced to refuse an appointment after arriving at D.C. General Hospital, for example, because she has had to wait too long after arrival before being seen by medical personnel. (Pl. Exs. 59, 389; Major testimony at 3-105 to 3-106; Jane Doe II testimony at 2-167; Jane Doe K testimony at 6-96; Jane Doe QQQ testimony at 4-20 to 4-26, 4-35; Ali Dep. Tr. at 103-04).

104. As a result of Defendants' failure to transport women to medical appointments in a timely manner, particularly to D.C. General Hospital, some women have not been able to receive medical visits at appropriate intervals. In some instances, there is considerable delay before a woman is seen at a rescheduled appointment. (Pl. Ex. 389; Jane Doe II

testimony at 2-167 to 2-168; Jane Doe QQQ testimony at 4-20 to 4-26).

105. In April 1994, for example, Jane Doe QQQ had an appointment at D.C. General Hospital to be tested for gestational diabetes. Because of the nature of the test, she was told not to eat that morning before the test was taken. At the time, Jane Doe QQQ was approximately eight months pregnant and there was a history of diabetes in her family. Her appointment was scheduled for 7:30 am but she did not leave CTF until 8:30 am because there was no escort to take her. Jane Doe QQQ did not arrive at DCGH until approximately 8:40 am she and had to wait in a main waiting area, with restraints on, for almost three hours. Jane Doe QQQ eventually had to refuse to receive the test at D.C. General Hospital that day because she had been waiting three and a half hours, shackled to a bench, and although eight months pregnant, had not eaten any food since the night before. Dr. Major testified that in his opinion, Jane Doe QQQ's wait was much too long, particularly because "[p]eople who have gestational diabetes, if they don't eat when they're supposed to they get weak, they get sweaty, dizzy and the same thing happens to the baby [which] is not good for the baby." (Major testimony at 3-105 to 3-106; Jane Doe QQQ testimony at 4-20 to 4-22).

106. Women prisoners have endured physical pain from Defendants' failure to provide an adequate transportation

system to enable them to keep their medical appointments. (Jane Doe II testimony at 2-167 to 2-171; Jane Doe K testimony at 6-96 to 6-97).

107. Rescheduling an appointment does not always alleviate the harm, or the risk of harm, caused by an initial missed appointment because there are a variety of standard tests that all pregnant women should receive within a prescribed period of time in order for those tests to be effective tools for evaluating the medical condition of the pregnant woman and the fetus. (Pl. Ex. 642; Major testimony at 3-96 to 3-97, 3-103).

108. Defendants are aware that their administrative and transportation mechanisms do not provide adequate access to obstetrical and gynecological care. (Pl. Exs. 59, 389, 394; Jane Doe II testimony at 2-170; C. Hall testimony). Defendants have even maintained statistics in some of the Chief Medical Officer's monthly reports to Dr. William Hall comparing the number of appointments scheduled at D.C. General Hospital with the number of prisoners actually seen by D.C. General Hospital personnel. (Pl. Ex. 394; C. Hall testimony).

109. In addition to delaying and denying access to care by using an inadequate transportation system, Defendants also have no written policy regarding the use of restraints on pregnant women. Incredibly, leg shackles, handcuffs, and in some instances belly chains, have been used on pregnant women while they were in labor and within weeks, and sometimes days

and even hours, of delivery. (Jane Doe K testimony at 6-99; Jane Doe L testimony at 2-141 to 2-148; Jane Doe W testimony at 1-61 to 1-64; Jane Doe QQQ testimony at 4-13 to 4-17; Ali Dep. Tr. at 162-163; Jones Dep. Tr. at 14-17).

110. Use of such restraints during pregnancy, particularly during the later part of pregnancy, delivery, and within six weeks of delivery, is inhumane, causes discomfort, and increases considerably the risk of injury to the woman. (Major testimony at 4-7; Jane Doe L testimony at 2-141 to 2-148; Jane Doe W testimony at 1-61 to 1-64).

Nutrition

111. Defendants have failed to meet the basic nutritional needs of pregnant women prisoners. (Major testimony at 3-108, 3-109 to 3-113; Jane Doe W testimony at 1-59 to 1-60).

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

113. Yet, D.C. General Hospital physician orders regarding nutritional supplements for pregnant women at CTF have not been followed by CTF medical personnel. (Major testimony at 3-112 to 3-113; Jane Doe QQQ testimony 4-26 to 4-30).

114. Not all pregnant women prisoners have received prenatal vitamins and iron tablets in a timely manner, due in part, to an alleged "storage problem." (Major testimony at 3-112 to 3-113).

115. Not all pregnant women have received an adequate amount of food, and the food they receive has often been cold or not cooked thoroughly. (Jane Doe W testimony at 1-59 to 1-60; Jane Doe QQQ testimony at 4-27 to 4-30; Riddick Dep. Tr. at 228-30).

Exercise

116. Women prisoners at CTF do not have access to regularly scheduled prenatal exercise classes and opportunities to receive fresh air. Defendants offered virtually no prenatal exercises classes until May 1994. (Major testimony at 3-113 to 3-114; Jane Doe K testimony at 6-97; Jane Doe QQQ testimony at 4-12 to 4-13).

Prenatal Health Education

117. Defendants have failed to inform all pregnant women of the existence of the prenatal education classes that are available, on the occasions when such classes have been offered. (Major testimony at 3-114 to 3-116; Jane Doe K testimony at 6-97).

118. In addition, staff at CTF have failed to provide pregnant women prisoners with adequate educational material regarding all aspects of proper prenatal care. (Pl.

Ex. 434; Major testimony at 3-114 to 3-116; Jane Doe K testimony at 6-97; Jane Doe QQQ testimony at 4-11).

Child Placement Counseling

119. Defendants are aware of the necessity of providing adequate child placement counseling to pregnant women prisoners, particularly in light of the fact that "the greatest number of abandoned infants in the area hospitals belong to the women who are incarcerated within [Defendants'] institutions." (Pl. Ex. 44).

120. Dr. Major was "amazed" that there had been so many boarder babies at D.C. General Hospital of women who were incarcerated. (Major testimony at 3-119 to 3-120; Pl. Exs. 44, 45, 46, 47, 434, 601, 605; Gilmore Dep. Tr. at 79-80; McMurtry Dep. Tr. at 304-06; Minor Dep. Tr. at 26, 32-33). As Dr. Major also testified, however, even if there were no boarder babies of women incarcerated at CTF, his opinion that child placement counseling was inadequate would not change because some women prisoners signed the care of their babies over to people "whom they hardly knew and people who if they had another choice would not be the person they would choose to give the child care." (Major testimony at 3-120; Jane Doe QQQ at 4-32).

121. Once Defendants become aware that a woman prisoner is pregnant, it is in the best interest of the woman, her unborn child, and Defendants to begin non-directive counseling to the woman as soon as possible regarding the

variety of child care arrangements available to her. Indeed, Defendants' own written policy provides that counseling regarding child placement shall take place as soon as the pregnancy is known. (Pl. Ex. 8; Major testimony at 3-116 to 3-118).

122. Nevertheless, Defendants, in violation of their own policy, have failed to provide pregnant women prisoners with adequate counseling regarding child care arrangements. In some instances, Defendants have failed to provide any counseling regarding child care arrangements until after a child's birth. (Pl. Exs. 8, 434, 458; Jane Doe L testimony at 2-151).

123. The counseling that Defendants provide is deficient because it often does not explore the variety of alternative child care arrangements available, but instead, focuses on adoption alone. (Major testimony at 3-118 to 3-119; Jane Doe QQQ testimony at 4-31).

124. Indeed, Defendants' promotion of adoption as the preferred child care arrangement has led some women prisoners to avoid seeking counseling from Defendants altogether because they believe Defendants will not provide appropriate assistance in making alternative child care arrangements. (Major testimony at 3-118; Jane Doe QQQ testimony at 4-30 to 4-32).

125. Defendants have also failed to provide women prisoners with adequate opportunities to discuss child care

arrangements with family members and other interested persons well in advance of their child's birth. In 1994, Regina Gilmore recognized "boarder babies, child custody and foster care services for newborns" as examples of program gaps or barriers for women prisoners in Defendants' custody. (Pl. Exs. 9, 434; Jane Doe QQQ testimony at 4-30 to 4-32).

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

127. In addition, Defendants' failure to provide adequate counseling to women prisoners regarding child care arrangements raises the stress level of pregnant women prisoners significantly because they fear that proper child care arrangements will not be made in advance of their children's birth or if they are made, will be made under duress, in haste, and without informed consideration. (Pl. Ex. 9; Major testimony at 3-117 to 3-118, 3-120 to 3-121; Jane Doe QQQ at 4-32; Krull Dep. Tr. at 96; McMurtry Dep. Tr. at 120-26).

128. As expressed to then-Director Ridley by the members of Defendants' Task Force on Pregnant Female Offenders: "Staff knew only too well the pain and suffering of a resident who, upon the birth of her child, was returned to custody. Staff knew only too well the agony of the pregnant

resident who was also HIV positive and who suffered for the fate of her unborn child. Staff knew only too well the misery of the woman resident whose child was placed in foster care with an unknown person in an unknown part of the city." (Pl. Exs. 601, 307, 434, 605, 625; McMurtry Dep. Tr. at 120-26).

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

130. Moreover, each day that such children remain in the hospital, their mothers endure unnecessary stress because of the circumstances in which the children are living. Often, this stress is not alleviated, but exacerbated while children remain at the hospital because Defendants have no established policy for arranging opportunities for women prisoners to visit with their infants who remain in the hospital. This is so even though Defendants have deemed it essential to provide sufficient opportunities for contact and bonding between mother and child. (Pl. Exs. 48, 341, 434, 458; Major testimony at 3-121 to 3-122 to 3-124; Jane Doe K testimony at 6-99 to 100; Studevart testimony; P. Jackson Dep. Tr. at 119-121; Ray (II) Dep. Tr. at 16-19).

131. Jane Doe VVV, for example, gave birth to a baby boy on October 19, 1992. Ad hoc arrangements were made for

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

132. Despite the importance of bonding between mother and child, CTF also has no policy allowing women prisoners who are new mothers to visit with their newborn children while the women prisoners are still in the hospital and before they are returned to CTF. (Major testimony at 3-123 to 3-124; Jane Doe QQQ testimony at 4-18).

Postpartum Counseling

133. Postpartum counseling is necessary for a woman who suffers from postpartum depression or depression resulting from the separation from her child, or for a woman whose pregnancy ends in miscarriage, stillbirth, or death shortly after birth. Postpartum counseling is also necessary for a woman whose child has not been placed with an appropriate care taker and thus remains at D.C. General Hospital as a "boarder baby." Defendants, however, have failed to provide adequate postpartum counseling to women in these circumstances. (Pl. Ex. 48; Major testimony at 3-128 to 3-130).

134. Jane Doe UUU, for example, gave birth to a baby in November 1992. The baby, however, had medical problems and had to remain at DCGH. Unfortunately, Jane Doe UUU's baby died soon thereafter. On December 4, 1992, she went to review the remains of her three-week old baby and to sign documents regarding the child. Jane Doe UUU received no counseling regarding her baby's death. (Pl. Ex. 48; Major testimony at 3-129 to 3-130).

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

Coordination of Medical Care

136. Defendants do not follow the Memorandum of Understanding between D.C. General Hospital and the Department of Corrections which exists to facilitate communication between the two institutions and to identify areas of responsibility accorded to each. This Memorandum of Understanding, effective since 1991, specifically addresses important aspects in the provision of care, including access to medical care, access to medical information, interagency communication, quality assurance, and continuity of care (Pl. Exs. 455, 667; Major testimony at 3-132 to 3-137).

137. As a result of Defendants' failure to comply with the Memorandum of Understanding, there is a lack of communication and coordination at 3 levels: (1) medical to medical (i.e., Doctor to Doctor); (2) nurse to nurse (DCGH to CTF); and (3) DCGH Medical to DOC-CTF custody staff. (Pl. Ex. 667; Major testimony at 3-137 to 3-138; Clark testimony).

138. Defendants' failure to comply with the Memorandum of Understanding and the lack of effective coordination and communication between D.C. General Hospital and CTF, negatively affects Defendants' ability to provide adequate gynecological and obstetrical care to women prisoners incarcerated at CTF. (Pl. Ex. 667; Major testimony at 3-132 to 3-138; Jane Doe L testimony at 2-138 to 2-148).

139. Defendants fail to conduct regular meetings as directed by the Memorandum of Understanding. (Pl. Exs. 455, 667; Clark testimony).

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

141. Even though the Memorandum of Understanding addresses continuity of care, Defendants have failed to provide adequate follow-up and continuity of care to women

prisoners upon release. (Pl. Ex. 455; Major testimony at 3-77 to 3-78, 3-87, 3-135).

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

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

144. D.C. General Hospital physician orders are not followed by medical personnel at CTF. (Jane Doe V testimony at 4-95; Jane Doe W testimony at 1-58 to 1-59; Jane Doe QQQ testimony at 4-19, 4-27 to 4-30; C. Hall testimony).

IV. PROGRAMS

General

145. Defendants have written documents professing the goal to provide equitable programs for female offenders as compared to similarly situated male offenders, "while simultaneously meeting the uniquely gender-related needs of the incarcerated female." (Pl. Exs. 51, 211, 281, 284, 289,

291, 312, 323, 338, 339, 347, 348, 350, 434, 482, 665).

However, they have failed to achieve this goal mandated by federal and state law in that the programs for women prisoners are not adequate nor comparable to the programs for similar men prisoners. (Lancaster testimony at 5-5).

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

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

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

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

150. Medium custody men can also be housed at the Central Facility, a medium-medium facility. Central is the District's master program facility that provides male inmates with the opportunity "to participate in high intensity and comprehensive programming." (Pl. Exs. 452, 508, 621; Braxton Dep. Tr. at 17; Gibbons Dep. Tr. at 43-45; Krull Dep. Tr. at 34-39).

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

152. The medium custody, general population female inmates at CTF are similarly situated to the medium custody, general population men housed at the Central Facility, Medium Facility, and Occoquan. (Lancaster testimony at 5-8; Riddick Dep. Tr. at 41-42).

153. The male inmates housed at CTF are not similarly situated to the women prisoners in the women's unit at CTF, but are special population inmates participating in the voluntary, 12-18 month prerelease substance abuse treatment program, or the 30-45 day Reception and Diagnostic evaluation process. (Lancaster testimony at 5-8 to 5-9; Pl. Exs. 319, 425; Minor Dep. Tr. at 71-74; Ray (I) Dep. Tr. at 90; Riddick Dep. Tr. at 40).

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

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

156. The minimum custody female inmates at the Annex are similarly situated to the minimum custody male inmates at the Minimum Security Facility. (Lancaster testimony at 5-8).

157. Women prisoners have the same basic needs as men prisoners in the areas of academic education, college education, vocational education, work opportunities, recreation, and religion. (Lancaster testimony at 5-10, 5-92 to 5-94; Ryan testimony; Gilmore testimony).

158. Adult female inmates do not receive reception and diagnostic studies, available to similarly situated male inmates, and thus there is no comprehensive educational, vocational, and psychological testing for the women's needs and interests to guide appropriate programmatic solutions. (Pl. Exs. 281, 663, 665; Gibbons Dep. Tr. at 45, 62).

159. The legal concept of parity is one that has a practical meaning to prison administrators, and it is a nationally-recognized term for persons developing and administering programs for female offenders. (Lancaster testimony at 5-5 to 5-6; Pl. Ex. 319).

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

Academic Education

CTF

161. Defendants provide women at CTF with academic education programs that are inadequate and not comparable to those provided to male inmates at Central, Medium, and Occoquan. (Lancaster testimony at 5-13 to 5-15).

162. Defendants provide women at CTF with only part-time academic education classes, but provide the men at Central, Medium, and Occoquan with the opportunity for full-time classes. (Lancaster testimony 5-11 to 5-12, 5-14; Pl. Exs. 217, 242, 343, 490, 661; Gibbons Dep. Tr. at 61; Krull Dep. Tr. at 42, 47). No evening classes are available to the women as originally planned at CTF. (Pl. Exs. 330, 444).

163. The physical plant of CTF creates serious limitations on the programs and activities available to the women. CTF was designed as a controlled-movement treatment facility for substance abuse, mental health, and diagnostics that required intensive staffing. (Pl. Exs. 51, 330, 338, 405, 439; Elzie Dep. Tr. at 19). Defendants' placement of general population women prisoners in this controlled environment necessitates staff escorts to access centralized programming areas. (Lancaster testimony at 5-12; Pl. Exs. 339, 612).

164. The requirement of staff escorts severely limits women prisoners' access to program opportunities. Program time is often delayed and even cancelled due to defects in the escort process. Problems with the operation of the elevator compound the escort situation and result in significantly less program time for the women. (Lancaster testimony at 5-15; Ryan testimony; Jane Doe II testimony at 3-4 to 3-5; Jane Doe V testimony at 4-83 to 4-84; Pl. Exs. 426, 612; Perry Dep. Tr. at 73-74, 133-41).

165. Defendants' use of overtime staff to solve the escort problem is not an acceptable permanent solution. The extended use of overtime burns out employees and decreases their professionalism and energy level. (Lancaster testimony at 5-13; McCathorine Dep. Tr. at 112-16). Defendants' failure to appropriately staff the CTF women's unit results in programming staff being utilized to perform security escorts which in turn decreases program opportunities for women in all areas including education. (Pl. Exs. 319, 329, 330, 343, 405, 426, 665; Perry Dep. Tr. at 73-74). Defendants' decision to substitute correctional officers for counselors has also reduced the program opportunities available to women. (Pl. Exs. 51, 405, 444).

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

167. Similarly situated men at Medium and Central move freely around the facility and can easily access education programs. (Gibbons Dep. Tr. at 64-65; Krull Dep. Tr. at 68). Men at Occoquan, which is a controlled-movement facility, use a pass system instead of an escort system allowing them free access to all programs. (Braxton Dep. Tr. at 22-24).

Annex

168. Defendants provide women at the Annex with academic education programs that are inadequate and not comparable to those provided to male inmates at Minimum. (Lancaster testimony at 5-18).

169. Defendants did not provide academic school to the women prisoners at the Annex for seven months over the time period between May 1992 and October 1993. Defendants cancelled school three different times: for four months when the air conditioner was broken at the Annex trailer; a second time when the sole teacher was sick; and a third time when the Annex entered "shut down mode" for three months in anticipation of the transfer of all women to CTF. No substitute teachers were detailed to the Annex to provide education for the women, nor were women permitted to enroll in the classes for men at Minimum. (Lancaster testimony at 5-18 to 5-19; Pl. Exs. 345, 470; Jane Doe VII testimony at 4-102 to 4-103; Jane Doe P testimony at 4-57 to 4-58).

170. The basic education Defendants provide to the women at the Annex is inadequate because the one teacher can only offer part-time ABE and part-time GED classes. Part-time education is insufficient to provide the required educational programming to those women who need the instruction. A second teacher would enable the women to accomplish the educational goals faster, which is crucial for women prisoners who serve relatively short sentences. (Lancaster testimony at 5-18; Gilmore testimony; Pl. Exs. 332, 345, 362, 470, 488).

171. Defendants limit women's access to the classes by scheduling class during the day which overlaps with work time for many women, and thus denies them the opportunity to participate in educational classes. Defendants also provide women with less educational equipment such as computers and typewriters than men at Minimum. (Pl. Exs. 332, 345, 362, 470, 488).

172. Male inmates at Minimum have the opportunity for full-time education and two teachers teach school full-time. Many male inmates have completed basic education courses prior to their transfer to the Minimum Facility. (Lancaster testimony at 5-19).

College Education

CTF

173. Defendants provide women at CTF with college education programs that are inadequate and not comparable to

those provided to male inmates at Central, Medium, and Occoquan. (Lancaster testimony at 5-17 to 5-18).

174. No college education program was available to women prisoners at CTF from May 1992 to January 1993. (Lancaster testimony at 5-15; Pl. Exs. 330, 344, 449).

175. Defendants do not provide women at CTF with a four-year college degree program. (Lancaster testimony at 5-15 to 5-17; Ryan testimony; Jane Doe II testimony at 3-3; Jane Doe V testimony at 4-81 to 4-82; Pl. Exs. 420, 591).

176. Men at Central, Medium, and Occoquan are provided with four-year B.A. and B.S. programs in a variety of fields like urban studies, media technology, and business administration. Men at Central have four-year college programs run by the University of the District of Columbia (UDC); men at Medium have four-year college programs run by Park College; and men at Occoquan have four-year college programs run by both UDC and Park College. (Lancaster testimony at 5-16; Def. Answers Int. No. 7; Pl. Exs. 215, 216, 235, 472, 516, 528; Gibbons Dep. Tr. at 66-70; Krull Dep. Tr. at 48-49).

177. Women at CTF are offered one associates' degree program through Atlantic Union College in the area of "general studies" and a corresponding one-year pre-college certificate program. (Lancaster testimony 5-15 to 5-16, 5-18; Jane Doe II testimony at 3-3; Jane Doe V testimony at 4-82; Pl. Exs. 383, 420, 591).

178. Men at Central, Medium, and Occoquan are offered associates' degree programs through UDC and Park College. UDC offers a pre-college program and an associates' degree program in a variety of fields including accounting, computer science, legal assistance, media technology, urban studies, and business management. Men at Central, Medium, and Occoquan are provided with more fields of study and variety of courses than women at CTF. (Lancaster testimony at 5-16; Pl. Exs. 215, 216, 235, 375, 376, 389, 526; Gibbons Dep. Tr. at 68-69; Krull Dep. Tr. at 50).

179. Defendants require women at CTF to finance the two-year Atlantic Union program with grant monies. However, similarly situated men are offered two and four-year college programs through UDC at no cost, which do not require personal payment or application for grant monies. UDC also offers inmates the opportunity to receive their first semester free once released into the community. (Lancaster testimony at 5-15 to 5-16; Jane Doe II testimony at 3-3; Jane Doe V testimony at 4-82; Pl. Exs. 215, 216, 235, 420; Braxton Dep. Tr. 24-25).

180. The Atlantic Union program for women at CTF is taught by "electronic distance learning" through a computer. Men at Central, Medium, Occoquan have on-site classes with teachers who are able to motivate students and serve as role models and mentors. (Lancaster testimony 5-15 to 5-16; Jane Doe II testimony at 3-2 to 3-3; Jane Doe V testimony at 4-82; Pl. Exs. 379, 420, 449, 591; Krull Dep. Tr. at 49; Ray (I)

Dep. Tr. at 83). Some of the best role models women prisoners have are teachers. (Lancaster testimony at 5-16).

181. The only "instructor" available to women enrolled in Atlantic Union College is a monitor who is a GED instructor not qualified to teach college courses. The monitor has his own academic education class scheduled at the same time as the Atlantic Union computer lab time, and thus is only able to stop in the computer lab to handle problems. (Jane Doe II testimony at 3-2 to 3-3).

182. Women inmates enrolled in Atlantic Union courses experience problems in the delivery of the college program that result in limiting the women's access to the classes. (Pl. Exs. 283, 330, 379, 420, 426, 521). Women prisoners at CTF encounter scheduling problems with the delivery of their education programs that are not experienced by similarly situated men. All programming activities for women, including education, vocation, and library hours, are scheduled during the same two and one-half hour period each day. This scheduling limits women's ability to participate in more than one program and results in the women being idle for the majority of the day. (Pl. Exs. 283, 330, 405, 421, 515; Jane Doe II testimony at 3-4, 3-8 to 3-9).

183. The amount of time allotted for women in the Atlantic Union program is insufficient based on Atlantic Union College standards. Evening and weekend computer lab hours for the women were scheduled for January to September 1993, but

cancelled due to Defendants' inability to provide escorts and staff supervision for the women. (Pl. Exs. 374, 379, 420, 421, 426, 476, 515). Recently, the women's computer lab time was reduced to only three mornings per week in order to permit the male inmates access to the law library where the computer lab is located. (Jane Doe II testimony at 3-4 to 3-6).

184. Defendants routinely fail to file the necessary paperwork for the women's Pell grant applications in time for the women at CTF to register them for the term. (Lancaster testimony at 5-15; Pl. Exs. 374, 420).

185. Books and materials are not received in time to participate in courses paid for by Pell grant monies. (Jane Doe II testimony at 3-5).

186. Pell grant monies obtained for the Atlantic Union College program are not transferable to the college program at the Annex and are not reimbursed when a woman is transferred to another facility or forced to drop out of class due to the failure to receive books. Credits from the Atlantic Union College program are not transferred to the women's college program at the Annex because the UDC course is not a degree program, and thus there is nothing to which the Atlantic Union credits can be transferred. The women cannot take the UDC elective courses to complete the Atlantic Union AA degree program. (Lancaster testimony at 5-15; Pl. Ex. 434).

Annex

187. Women at the Annex have received college education that is inadequate and not comparable to that for men at Minimum. Defendants do not escort women to class on time, they do not receive sufficient GED courses to qualify them for college courses, and the two elective course offerings through UDC are not part of a degree program.

(Lancaster testimony at 5-20 to 5-21; Pl. Exs. 332, 489; Krull Dep. Tr. at 153; Jane Doe VII testimony at 4-100 to 4-102).

Education Overall

188. Defendants are aware of the inadequate and inferior education provided to women prisoners, but have failed to implement plans to alter these inadequacies. (Pl. Exs. 227, 228, 282, 291, 330).

189. The lack of basic academic education harms women by denying them the ability to qualify for industry employment, halfway house, parole, work training, or higher education opportunities. (Lancaster testimony at 5-21; Gibbons Dep. Tr. at 112; Smith Dep. Tr. at 105-106; Stempson Dep. Tr. at 144). Education is one of the cornerstone responsibilities of prison administrators. Completion of basic education is the key that opens the door to future employment opportunities. (Lancaster testimony at 5-21).

190. Defendants' provision of limited access to education, and their provision of inferior educational programs, denies women the ability to earn good time credits

pursuant to D.C. Code § 24-429 and D.C. Reg. 604.5 for release from prison. (Lancaster testimony at 5-22; Pl. Ex. 272).

191. Defendants' failure to provide adequate and equal post-secondary education increases women's recidivism because such a program is an effective way of reducing recidivism. (Ryan testimony; Pl. Ex. 592). Research has shown that there is an overwhelming positive correlation between correctional education and recidivism. (Ryan testimony).

192. In addition, the lack of education programs reduces the options that women have upon release from prison for obtaining further education and employment. This employment often is paramount in enabling women to obtain housing in the community and to care for and retain custody of their children. (Lancaster testimony at 5-21).

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

Vocational Education

CTF

194. Defendants provide women at CTF with vocational education programs that are inadequate and not comparable to those provided to male inmates at Central, Medium, and Occoquan. (Lancaster testimony at 5-25 to 5-26; Pl. Ex. 222).

195. Vocational education is defined as a program lasting from six to twenty-four months in duration and comprised of both a classroom component and an on the job training component. (Lancaster testimony at 5-22; Ryan testimony).

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

197. As of October 1992, Defendants provide women at CTF with only one vocational education class in graphic arts, DocuTech, which is open to six minimum-custody women every nine months. Pursuant to a consent decree, female youth offenders (YRA) women are required to be enrolled in vocational programming, and these inmates occupy the majority of the available vocational positions. (Lancaster testimony at 5-22; Jane Doe II testimony at 3-8; Pl. Exs. 294, 306, 426).

198. Women must have minimum custody status in order to participate in the DocuTech program. However, medium custody women need such a vocational program because they need on the job training, and have the time to complete a comprehensive vocational program. (Lancaster at 5-22; Pl. Exs. 294, 306, 426).

199. Three short job skills classes in the stereotypical female occupations of word processing, typing and sewing are also available to women at CTF. (Def. Answers

Int. Nos. 10 & 11; Pl. Ex. 306; Jane Doe V testimony at 4-83 to 4-84). These classes do not satisfy the requirements of a true vocational education program. (Lancaster testimony at 5-23 to 5-24).

200. There have been problems with the delivery of the three skills programs to women prisoners. The computer literacy teacher routinely fails to show up for class scheduled at 8:00am. Female inmates also need a 8.0 reading level to participate in some of these courses, and thus the domino effect of the part-time education courses limits their ability to participate in the vocational skills courses. (Lancaster testimony at 5-22 to 5-24).

201. Because women are classified to CTF on the basis of gender, they are denied access to many vocational education and training programs which are available to male prisoners at other institutions. Defendants provide men at Central, Medium, and Occoquan with a wide range of comprehensive vocational education programs including: auto body, auto mechanics, barber science, brickmasonry, building maintenance, business typing, carpentry, culinary arts, drywall/painting, digital electronics, electricity, graphic arts, photography and plumbing. (Def. Answers Int. No. 10; Pl. Exs. 215, 216, 235, 267, 478, 490, 491, 508, 516, 517, 621; Lancaster testimony at 5-24; Gibbons Dep. Tr. at 75-78; Krull Dep. Tr. at 53-56).

202. Staffing inadequacies, scheduling conflicts, and escort problems at CTF restrict women's access to vocational education. (Jane Doe II testimony at 3-9 to 3-10; Jane Doe V testimony at 4-83 to 4-84; Pl. Exs. 329, 330, 405). Due to these constraints, the time scheduled for women to participate in the graphic arts program is insufficient to enable them to complete the 1080 hours necessary for certification in the nine month program. (Jane Doe II testimony at 3-10 to 3-11; Pl. Ex. 306).

203. Women at CTF do not have a prevocational Employment Techniques, Awareness and Preparation (ETAP) class. An ETAP class was previously available from October 1992 to July 1993, but escort problems limited women's participation. A prevocational twelve week Lifeskills class has been offered to women prisoners at CTF only two times in two years. (Lancaster testimony at 5-25; Pl. Ex. 374; Brantley testimony). Similarly situated men have both ETAP and Lifeskills classes available to them. (Pl. Exs. 215, 216, 235, 490, 516).

204. Medium custody, long-term women, who can only be assigned to CTF, have no apprenticeships available to them. (Lancaster testimony at 5-25; Defs. Answers Int. No. 12; Jane Doe V testimony at 4-84). However, similarly situated men have access to a variety of apprenticeships including carpentry, culinary arts, dental technology, electricity, plumbing, upholstery, and boiler plant operations. (Lancaster

testimony at 5-25; Pl. Exs. 215, 216, 234, 235, 264, 267, 268, 490, 491, 508, 517, 518; Gibbons Dep. Tr. at 84-86).

205. Women prisoners at CTF need vocational programs. Defendants have failed to provide the range of services necessary for both short and long term women prisoners. (Lancaster testimony at 5-25 to 5-26; Ryan testimony).

Annex

206. Defendants provide the women at the Annex with only one vocational education program in graphic arts that does not adequately meet the needs of the women. (Lancaster testimony at 5-28; Pl. Ex. 222). The abbreviated program in graphic arts is available to only a few women and the fifteen-week program is too short to provide sufficient vocational education and training, as one full year is required to gain employable skills. (Lancaster testimony at 5-28). Moreover, women at the Annex are offered the same vocational program that exists at CTF in graphic arts, thus limiting the ability of women incarcerated in DCDC to participate in more than one vocational program.

207. Follow-up on-the-job training to the graphic arts program is not adequately provided, as the women are not routinely hired by the Print Shop to continue their skill development. Currently, only two women work in the print shop. (Pl. Ex. 264; Gilmore testimony; Brown testimony).

208. Defendants do not provide women at the Annex with equivalent vocational opportunities as similarly situated men. Men have additional vocational opportunities in the DCDC prior to coming to Minimum. Due to the typically longer sentence structure of men, men have already obtained vocational education training by the time they are transferred to Minimum. Once transferred to Minimum, the men continue this training by working on trade details such as plumbing, electrical, and carpentry that are not available to women. (Pl. Ex. 379).

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

210. Defendants' provision of inadequate and inferior vocational education programs significantly harms women because they do not have the opportunity to gain marketable, employable skills that will lead to meaningful employment upon release from prison. (Lancaster testimony at 5-28).

211. Because of the lack of vocational training, women are unable to work in higher grade detail jobs which develop job skills, pay more money, and build on skills taught

in vocational programs. (Lancaster testimony at 5-31 to 5-32; Jane Doe V testimony at 4-80 to 4-81; Pl. Ex. 238; Krull Dep. Tr. at 54).

212. Women are precluded from earning good time credits from vocational education that can shorten their term of imprisonment. (Lancaster testimony at 5-29; Pl. Ex. 272; Krull Dep. Tr. at 56).

213. Women are also unable to earn the money needed to support themselves and their dependent children while in prison. (Lancaster testimony at 5-28; Pl. Ex. 238).

Work Opportunities

Work Details

214. Defendants provide women at CTF and the Annex with work details that are inadequate and not comparable to those provided to similarly situated men. (Lancaster testimony at 5-31 to 5-34). Work details are those job assignments for inmates in the routine duties at the prison that will enable them to learn job skills and develop work habits while maintaining the facility in clean, working order. (Lancaster testimony at 5-29; Pl. Ex. 363). Details are paid under the Non-Industrial Pay System (NIPS) which is a grade system ranging from \$6.50 per month to \$21 per month. (Pl. Exs. 363, 379; Lancaster testimony at 5-29; Jane Doe V testimony at 4-81).

215. Defendants provide men at Central, Medium, Occoquan and Minimum with a wide range of details offering on-

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

216. Most women prisoners at CTF, with the exception of the few educational aides, work on stereotypical details such as culinary, clerical, and building maintenance (cleanup). Many women, eight on each of the eight units, are assigned only to unit duty which takes only one hour to complete. These women remain idle for the rest of the day. (Lancaster testimony at 5-29 to 5-32; Pl. Ex. 674).

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

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

219. Men at Minimum have a greater variety of work details that develop employable skills. (Lancaster testimony at 5-33; Pl. Ex. 674). Men are also employed on work details

that are offsite, for which they are able to leave the institution. (Lancaster testimony at 5-33).

220. The NIPS pay scale is the same for both men and women prisoners. However, the more skilled jobs, like trades jobs of plumbing, electricity, and welding, receive the higher range of NIPS wages. Thus, the lower skilled jobs that women primarily work in are paid at the lower range of the NIPS scale. (Lancaster testimony at 5-31 to 5-32).

Industries

221. Defendants provide the women at CTF with industrial work opportunities that are inadequate and not comparable to those provided to male inmates at Central, Medium, and Occoquan. (Pl. Ex. 225; Lancaster testimony at 5-35). A prison industry is run like a private business for profit in that the industry makes a product and employees (inmates) are held accountable for their work performance and attendance. (Lancaster testimony at 5-34; Gibbons Dep. Tr. at 122-24). Industry is paid under a separate pay scale from the work details and the wages range from \$80 to \$300 per month. (Lancaster testimony at 5-34 to 5-35; Pl. Ex. 225).

222. Although women are in desperate need of job training opportunities, Defendants provide no industries for women at CTF. (Lancaster testimony at 5-35; Ryan testimony; Pl. Ex. 269; Jane Doe V testimony at 4-80). Similarly situated men are provided with eleven different industrial opportunities that earn from \$80 - \$300 per month: Accounting,

Furniture Repair, Garment Shop, Laundry, Maintenance, Metro Shop, Metal Shop, Print Shop, Supply, Warehouse. (Def. Answers Int. Nos. 19 & 20; Pl. Exs. 225, 529, 594; Lancaster testimony at 5-35; Krull Dep. Tr. at 58-59).

223. The highest wage a woman at CTF can earn in any job is \$21 per month, while the highest wage a man can earn working in an industrial job can reach \$300 per month. (Def. Answers Int. No. 23; Pl. Exs. 225, 363, 594; Lancaster testimony at 5-35 to 5-36; Krull Dep. Tr. at 58-59).

224. Women at the Annex are denied equal access to the full range of industrial opportunities at Central based on their gender and stereotypical notions of women. (Lancaster testimony at 5-36 to 5-37; Def. Ex. 215; Gibbons Dep. Tr. at 81, 92-94, 114-15, 119-21). Women work in two industries, whereas the men are employed in eleven different industries. (Def. Answers Int. No. 20; Pl. Exs. 264, 344, 621, 662; Gibbons Dep. Tr. at 111-13).

225. No valid reason exists for Defendants to exclude women prisoners from all industries at Central. Industrial programs help women pay for child support, motivate the women, and are one of the best programs available for inmates. (Lancaster testimony at 5-36; Gibbons Dep. Tr. at 122-23). As the Administrator of Central found, the women have proven to be good workers and there have been surprisingly few problems with the coed work environment. (Gibbons Dep. Tr. at 120-21).

226. Defendants' exclusion of women from certain shops at the Central Industries on the grounds of the women's lack of strength, security risk, claimed aversion to getting their hands dirty, and the lack of bathrooms devalues women and is characteristic of gender bias. (Gibbons Dep. Tr. at 81, 92-94, 114-15, 119-21; Def. Ex. 215; Brown testimony; Ryan testimony).

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

228. Women at the Annex are also excluded from the two new industries for men at Minimum in agriculture and landscape. (Def. Ex. 130; Stempson Dep. Tr. at 159-60; Brown testimony).

Work Training

229. Defendants provide women at the Annex with work training furlough opportunities that are inadequate and not comparable to those provided to male inmates at Minimum. (Lancaster testimony at 5-39). The work training furlough is a program available to minimum custody inmates that permits them to leave the institution during the day to work for a private employer at prevailing community wages, and then return to the prison each night. (Lancaster testimony at 5-37; Pl. Exs. 331, 378, 442). Once employed in the program, inmates are required to reimburse the institution \$2.00 per

day for the cost of their incarceration. Inmates are also required to save a certain percentage of funds earned in the work training programs to accumulate savings to aid in their transition back into the community. (Derr (I) Dep. Tr. 106-08; Smith Dep. Tr. at 141)

230. No work training furloughs are available to women at CTF, although Defendants' plans called for this program to be available to women upon the opening of CTF, and even though some minimum custody women are housed at CTF due to bedspace limitations at the Annex. (Def. Answers Int. No. 22; Pl. Exs. 51, 339, 444).

231. Defendants' implementation of the work training policy severely impacts women by denying them the opportunity to participate equally in this program. Women's participation in the program is merely "token". Only three women were approved for work training in all of 1993, and only two women in 1992. Associate Director for Operations Bill Plaut testified that it would be "appallable" if only two women participated in work training. (Plaut testimony). An average of 50 men from Minimum are employed in work training programs, and at the time of Plaintiffs' expert's tour, 90 men were participating in the program. (Lancaster testimony at 5-37 to 5-38; Def. Answers Int. No. 23; Pl. Exs. 344, 346, 369). The District has failed to achieve its own stated goal of increasing work training participation by women. (Pl. Exs. 324, 344, 348, 349, 434).

232. The few women who have participated in the work training program have been placed in stereotypical jobs such as clerical assistant, telemarketing specialist, and cook. (Lancaster testimony at 5-37; Pl. Ex. 369; Derr (I) Dep. Tr. at 137). Similarly situated men are placed in jobs that lead to higher paying jobs in the community, and some of which pay higher hourly wages in prison, such as barber, construction worker, custodian, truck driver, plumber, and auto mechanic. (Lancaster testimony at 5-38; Pl. Ex. 369; Derr (II) Dep. Tr. at 10-11).

233. The work training guidelines and procedures deny women equal participation in the work training program because they were designed for male offenders. (Krull Dep. Tr. at 173). The guidelines themselves are designed for men's longer sentences and accessibility to halfway houses. (Krull Dep. Tr. at 172-73). The mandatory 90-day waiting period before an inmate is eligible for work training is arbitrary as applied to female offenders. (Pl. Exs. 378, 432; Derr (II) Dep. Tr. at 37; Krull Dep. Tr. at 116-18; Lancaster testimony at 5-38). ETAP, a required prerequisite to work training participation, is not offered at CTF, and thus women must take the class at the Annex, thereby delaying their eligibility for work training. (Derr (I) Dep. Tr. at 117-18; Derr (II) Dep. Tr. at 23, 57).

234. There is no valid reason why women prisoners could not be participating in work training in greater

numbers. The vocational development specialist at the Annex, who also worked with men at Minimum, stated that most women who transferred to the Annex were eligible for work training. (Lancaster testimony at 5-38; Derr (I) Dep. Tr. at 116-18). Female inmates do not present a significant risk to the community since the majority of women are non-violent offenders. (Lancaster testimony at 5-40).

235. Defendants are aware of, but have failed to remedy, the numerous problems women encounter with the delivery of the work training program. (Pl. Exs. 284, 365, 366, 367). Defendants fail to process paperwork necessary to qualify women for the work training program; they fail to provide women with transportation to job interviews; and they fail to provide adequate staff to administer the program for women. (Lancaster testimony at 5-39; Pl. Exs. 365, 366, 367, 368; Derr (I) Dep. Tr. at 113-21, 131; Krull Dep. Tr. at 170).

236. Women are significantly harmed by their inability to participate equally in work training. Women are unable to earn the significant wages that enable them to save money for the transition into the community. (Lancaster testimony at 5-40; Jane Doe XI testimony at 4-144 to 4-149; Pl. Ex. 367; Derr (I) Dep. Tr. at 107-08).

Work Opportunities Overall

237. Without significant work opportunities like industry and work training, women are unable to participate in rehabilitative programs that teach skills by replicating the

real world, facilitate personal growth, and additionally, satisfy requirements for parole eligibility. (Lancaster testimony at 5-40; Jane Doe XI testimony at 4-148 to 4-149; Pl. Exs. 367, 378; Gibbons Dep. Tr. at 122-24).

238. Due to the lack of work opportunities in details, industries, and work training, women prisoners are also unable to obtain jobs that would continue upon release. This lack of funds and employment prevents women from reintegrating into the community and supporting their families. (Lancaster testimony at 5-40; Pl. Ex. 367; Derr (I) Dep. Tr. at 107-09).

239. The lack of work opportunities for women prisoners is directly related to the women's recidivism. The reason most women return to prison is the lack of money to take care of themselves, to care for their children, the inability to get a job, and too much responsibility immediately upon release for which they are not prepared. (Lancaster testimony at 5-41).

Recreation

240. Defendants provide the women at CTF with recreation activities that are inadequate and not comparable to male inmates at Central, Medium, and Occoquan. (Lancaster testimony at 5-44 to 5-45; Pl. Exs. 405, 424).

241. Women at CTF have extremely limited outside recreation time for only one hour, three to five times per week. The minimal scheduled time for daily outdoor recreation

conflicts with work and other programs and thus denies some women recreation time altogether. Women have recreation in the gym three nights per week for two hours. Unlike the men, women are not permitted to choose to go to the gym or outside during recreation time, but instead must go where the officers or the majority of the group dictate. (Lancaster testimony at 5-41, 5-44, 5-59; Jane Doe II testimony at 3-12 to 3-14; Jane Doe V testimony 4-86 to 4-87; Pl. Exs. 17, 18, 207, 209, 210, 424, 426).

242. Similarly situated men have outside recreation time "all day long" for 13 hours per day during which they can have informal outside time or participate in formal, organized activities. (Krull Dep. Tr. at 66-67). They have gym time for at least three hours per day, six days per week.

(Lancaster testimony at 5-42; Pl. Exs. 17, 207, 209, 210, 495, 496, 497, 508; Gibbons Dep. Tr. at 129-31; Braxton Dep. Tr. at 39-40; Krull Dep. Tr. at 66-67).

243. Women at CTF receive the amount of recreation time generally given to segregation inmates who are being punished for some wrong behavior. (Lancaster testimony at 5-41 to 5-42). Men at Maximum, the most restrictive facility for maximum custody men with behavioral problems or particularly violent offenses, have more recreation time than the medium custody women housed at CTF. (Pl. Ex. 661; Roach Dep. Tr. at 16-17). The women at CTF are not similarly situated to this group of men, and thus should receive greater

privileges than this population with restricted recreation time. (Elzie Dep. Tr. at 44-47; Riddick Dep. Tr. at 43-44).

244. The women at CTF have no regularly planned, organized recreation activities, although programs such as drama, arts & crafts, and leisure skills are called for by the CTF Operation Manual. (Pl. Ex. 51). The CTF recreation yard is too small to permit running, softball, or other organized sports activities. (Lancaster testimony at 5-43; Pl. Exs. 204, 207). Women were not given appropriate clothing for recreation until October 1993. (Pl. Ex. 426).

245. Similarly situated men have a track, ball field, handball wall, pool tables, horseshoes, and basketball courts. They have a wide variety of recreational activities such as sports (including boxing, basketball, softball, flag football, softball, soccer, and volleyball), nightly video movies, rock bands, drama groups, and arts and crafts. Men receive free athletic clothing and equipment from Lorillard Company for turning in empty cigarette packs. (Lancaster testimony at 5-43; Pl. Exs. 17, 209, 210, 495, 496, 497, 508; Gibbons Dep. Tr. at 128-37; Krull Dep. Tr. at 66, 68).

246. Staffing inadequacies and escort problems at CTF limit women prisoners' access to recreation and contribute to the inadequacy and inferiority in recreational activities. Twenty to thirty minutes of the time allotted for women's recreation time at CTF is spent escorting the women outside or to the gym, thereby greatly reducing the time women have to

recreate. Women are not given the choice to attend or leave indoor or outdoor recreation without the group escort.

(Lancaster testimony at 5-43; Pl. Exs. 213, 330, 374, 405, 424, 426; Jane Doe II testimony at 3-12 to 3-14; Jane Doe V testimony at 4-86 to 4-87).

247. There is insufficient staff to supervise and organize recreation for women at CTF. (Lancaster testimony at 5-43 to 5-44; Ryan testimony).

248. Defendants provide women at the Annex with recreation time and activities that are inadequate and not comparable to those provided to male inmates at Minimum. (Lancaster testimony at 5-47).

249. The women's recreation trailer at the Annex is open for only 2-4 hours per day, often during times that conflict with scheduled program and work times. An employee is needed to open the trailer. The size of the trailer precludes large group recreation activities for the women. The trailer is not open during visitation hours on the weekend. Women are permitted to use the men's gym and field only 3 hours each week. They have no designated outdoor recreation space on their own compound to which they have full access. (Lancaster testimony at 5-46; Jane Doe VII testimony at 4-105 to 4-106; Jane Doe P testimony at 4-58 to 4-59; Pl. Exs. 22, 23, 25, 27, 28, 331, 477, 637).

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

compound. They are permitted to recreate during all hours that do not conflict with scheduled visiting in the gym or other special programs. (Lancaster testimony at 5-47; Pl. Exs. 498, 499).

251. Women at the Annex have less opportunity for recreation than men. (Lancaster testimony at 5-47 to 5-48). Women have ROTC training, two intermural sports, volleyball and basketball that occur once per month, and one team sport, softball, in the summer. (Pl. Exs. 22, 23, 25, 27, 28, 332, 477, 499, 500). Women do not have large group events similar to those available to men at Minimum, such as talent shows and family gatherings. Women are denied participation in the Renaissance Drama Troupe available to the men. (Pl. Exs. 626, 627; Jane Doe VII testimony at 4-108 to 4-117). Women also have insufficient dayroom space for recreation inside the housing units. (Lancaster testimony at 5-49; Pl. Exs. 334, 637).

252. Men at Minimum have ROTC training and six weekly intermural sports: boxing, basketball, softball, flag football, volleyball, and soccer. The men are able to participate in the Renaissance Drama Troupe. (Lancaster testimony at 5-47; Jane Doe VII testimony at 4-111; Pl. Exs. 498, 499, 626).

253. Defendants do not provide sufficient staff to ensure that women at the Annex receive equivalent recreation programs as men at Minimum. Staff is required to open the

recreation trailer for women, escort the women to the gym or field, and to supervise organized recreation at Minimum. (Lancaster testimony at 5-46, 5-48). Women at the Annex did not have a recreation specialist to supervise and plan activities and open the recreation trailer from June 1992 to late October 1992. (Pl. Exs. 22, 26, 332, 630, 631). Once detailed, the recreation specialist has been utilized in different capacities which results in women being denied adequate and equal recreational opportunities. (Pl. Exs. 22, 24; Jane Doe VII testimony at 4-106; Jane Doe P testimony at 4-59).

254. Defendants are aware of the inadequate and inferior recreation opportunities for women, but have failed to correct the problems. (Pl. Exs. 18, 19, 20, 21, 282, 320, 330). Recreation is the primary component in any prison and is the cornerstone to maintaining a safe and secure environment. (Lancaster testimony at 5-49).

255. The women are significantly harmed by the inferior and inadequate recreation time and activities. The women at CTF suffer psychological and physical harm caused by their lengthy confinement in a high security, restricted-movement facility that was never intended to house long-term, general population inmates. (Lancaster testimony at 5-45, 5-49; Jane Doe V testimony at 4-88).

256. The lack of access to recreation leads to mental and physical health problems, including idleness,

weight gain, morale problems, depression, and tension among the women. (Lancaster testimony at 5-45, 5-49 to 5-50; Jane Doe V testimony at 4-88).

257. Defendants provide women at CTF with smoking privileges that are not comparable to those provided to male inmates at Central, Medium, and Occoquan. (Pl. Ex. 622; Lancaster testimony at 5-54). Women at CTF are not permitted to smoke at all. (Pl. Exs. 249, 251). The reason for the no-smoking rule at CTF -- that inmates are in intensive treatment programs -- is not applicable to general population women and serves only to deprive women of a privilege given to similarly situated men prisoners. Men at Central, Medium, and Occoquan are permitted to smoke outside, which they have access to most of the day, and in some indoor designated areas. (Lancaster testimony at 5-53 to 5-54; Pl. Ex. 249; Braxton Dep. Tr. at 46-47; Gibbons Dep. Tr. at 143-44).

258. Women are harmed by the lack of smoking privileges because they are denied privileges afforded to other inmates simply on the basis of sex. This denial of privileges important to inmates perpetuates societal stereotypes and patronizing views of women and prohibits women from making their own choice. (Lancaster testimony at 5-54).

Religious Programs

259. Defendants provide women at the Annex with religious programs that are inadequate and not comparable to the programs provided to similarly situated men at Minimum.

(Lancaster testimony at 5-52 to 5-53; Jane Doe VII testimony at 4-117 to 4-119; Pl. Exs. 196, 211, 331, 345, 475, 494).

260. Women do not have the full-time access to a chaplain who is available to men on a full-time basis.

(Lancaster testimony at 5-50, 5-52; Jane Doe VII testimony at 4-118 to 4-119; Pl. Exs. 345, 494; Gilmore Dep. Tr. at 227; Krull Dep. Tr. at 189). The chaplain who is assigned to the women does not perform the services required by Department Order 4410.1B, such as delivering notices of family illness and death and soliciting religious volunteers for programs for the women. (Pl. Exs. 191, 219, 475; Smith Dep. Tr. at 176).

261. Women receive less religious programs and services than men at Minimum. No Muslim services are available to female inmates at the Annex. (Lancaster testimony at 5-52).

262. Women have inadequate space for religious services and studies, as they are denied use of the chapel or any other program space on the men's compound. The limited space also restricts the number of religious volunteers who could come in to work with the women. (Lancaster testimony at 5-52; Pl. Exs. 331, 345, 494; Krull Dep. Tr. at 188-89).

263. Women prisoners are significantly harmed by the lack of equal and adequate access to religious programs. Women prisoners have a great need for chaplaincy services because they rely heavily on chaplains and religious volunteers for support, connection with their children, and as

confidants. For women, the chaplain and religious services are a great source of support, rehabilitation, and preparation for reentry into the community. (Lancaster testimony at 5-51; Minor Dep. Tr. at 24-27, 69-70, 82-87).

Housing

264. Defendants have housed women prisoners under a series of ad hoc arrangements that were not intended for general population female inmates and that do not provide adequate and comparable programmatic activities for women prisoners. (Lancaster testimony at 5-54 to 5-55; Pl. Exs. 211, 291, 321, 328, 330, 665; Jane Doe V testimony at 4-85).

265. The District's internal policy of housing women in co-correctional facilities, and their policy of not providing coeducational programming, sharply limits the availability and quality of the programs for women. (Lancaster testimony at 5-17; Jane Doe V testimony at 4-81 to 4-83).

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

267. In September 1989, women prisoners began to be housed at the Minimum Annex. (Pl. Ex. 452). The Annex dormitories were converted from old barracks on a Nike missile site and are approximately 40 years old. (Pl. Exs. 331, 350, 434; Plaut Dep. Tr. at 105-06). The Department of Corrections acquired the buildings in the late 1970s, and used them as its

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

268. In late 1991, the District deliberately decided to return women prisoners to DC facilities to save money. (Lancaster testimony at 5-54; Quander testimony; Pl. Exs. 338, 438). As of May 1992, the District planned to house women prisoners, including those returning from the federal BOP and those housed at the Annex, at the newly opened CTF. (Pl. Exs. 330, 333, 434, 438; Plaut Dep. Tr. at 43).

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

270. Then due to increasing numbers of women prisoners, the District planned to reopen one dormitory at the Annex to women and open one Annex dormitory, separated by a wooden fence, to men in the Unfoldment substance abuse program. (Pl. Exs. 333, 334). Because the programming trailers were to be designated for the men, the Administrators noted that this housing option would create problems in providing basic services to women at the Annex. (Pl. Ex. 334). Therefore, the District's plan was to house only female misdemeanants within 180 days of release at the shared Annex

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

271. Toward the end of building completion, the District decided to house female prisoners from Lorton and the federal BOP at CTF. (Pl. Exs. 330, 338, 350, 438). CTF was designed to house inmates for intensive substance abuse and mental health treatment. (Pl. Exs. 330, 338, 439; Elzie Dep. Tr. at 19). This decision to house women at CTF was justified on the grounds that it would save the District over 4 million dollars in its 1993 budget by eliminating the need to provide expensive mental health services at CTF, and by reducing the cost of care for incarcerated women prisoners. (Pl. Ex. 338). However, CTF's controlled-movement design, requirement of escorts for all programming areas, and the resulting limited access to program and outdoor areas are not proper for the confinement of general population female offenders. (Pl. Exs. 51, 339; Lancaster testimony at 5-54 to 5-55).

272. Defendants' deliberate decision to house female inmates in co-correctional facilities creates a situation different than anywhere else in the country. The co-correctional facility is staff intensive and requires escorts

and shared space which limits women's access to programs. (Lancaster testimony at 5-54 to 5-56).

273. Defendants have failed to take affirmative steps to build the single-sex Women's Facility as planned in the Five Year Operational and Master Plans created in 1988 and 1990. (Lancaster testimony at 5-56 to 5-57; Pl. Exs. 452, 481, 482).

274. Defendants' deliberate decisions are typical of how women prisoners have been treated in the past. Women have been the caboose on the train of corrections, receiving only the leftovers in budgets, programs, and services. Since the early to mid-eighties, such treatment has no longer been condoned, and prison administrators have recognized that female inmates cannot be treated like second-class citizens. (Lancaster testimony at 5-57).

V. ENVIRONMENTAL CONDITIONS

Annex

275. The living conditions of the women prisoners housed at the Minimum Annex pose an unacceptable risk with respect to injury and illness. (Duel testimony at 6-4).

276. The women at the Annex are housed in two barrack-style dormitories that house between 80 and 100 inmates each. (Pl. Ex. 637; Duel testimony at 6-8).

277. The dormitories are overcrowded and house about twice as many women as they should in order to maintain an

acceptably healthy environment. (Duel testimony at 6-48; Genco testimony).

278. Dormitory #6 houses between 80 and 90 women in a single room. The furniture in the dormitory consists of double bunks lined against either side of the building. The bunks are approximately an arm's length apart. (Pl. Ex. 637; Duel testimony at 6-8; Jane Doe VII testimony at 4-119).

279. All bunks have heavy foot lockers; only some bunks have vertical lockers. Many of the women store their belongings in cardboard boxes and plastic bags under the bed. (Pl. Ex. 637; Duel testimony at 6-9). Other than the bunks and lockers, there is no furniture in the sleeping area of the dormitory. (Pl. Ex. 637; Duel testimony at 6-9).

280. The 80 to 90 women in Dormitory #6 share a dayroom that is only 26 feet by 12 feet -- approximately 4 feet per inmate. The room is crowded with chairs and one cardtable. The dayroom houses the only television for the dorm and the only two telephones. The main entrance into and out of the dorm, and the only entrance to the bathroom, is also off the dayroom. (Pl. Ex. 637; Duel testimony at 6-9 to 6-10).

281. The amount of dayroom space in Dormitory #6, especially in light of the lack of any amenities in the sleeping areas, is grossly inadequate. (Pl Ex. 637; ACA 3-4130; ACA 3-4131; Lancaster testimony at 5-49).

282. The 80 to 90 women in Dormitory #6 share six toilets and seven showers, which produces a ratio of 13 inmates per toilet and 12 per shower, assuming all fixtures are operational. (Duel testimony at 6-15). This is a grossly inadequate ratio, as confirmed by the standards set by both the American Correctional Association (ACA) and the American Public Health Association (APHA), which both require a ratio of no more than 8 inmates per toilet (for females) and 8 per shower. (Pl. Ex. 637; ACA 3-4132; ACA 3-4133; Duel testimony at 6-15 to 6-16).

283. The lack of an adequate number of sanitary fixtures can have an adverse effect on health. (Duel testimony at 6-16 to 6-17).

284. Dormitory #7 houses 84 to 94 women in two wings. "A-Wing" houses approximately 60 women in double bunks, while "B-Wing" houses approximately 30 women, also in double bunks. The bunks are about an arm's length apart. (Pl. Ex. 637; Duel testimony at 6-7 to 6-8).

285. Some of the bunks have vertical lockers; many do not. All bunks have heavy footlockers. Like Dormitory #6, there are no tables or chairs in the sleeping areas. (Pl. Ex. 637; Duel testimony at 6-9).

286. Both wings of Dormitory #7 open onto a dayroom that is only 31 feet by 24 feet -- approximately 6 feet per inmate. Most of the available space is taken up by the officer's desk and by the lines of chairs facing the only

television. The only telephones available for the use of inmates are also in the dayroom. (Pl. Ex. 637; Duel testimony at 6-9 to 6-10).

287. The amount of dayroom space in Dormitory #7, especially in light of any amenities in the sleeping areas, is grossly inadequate. (Pl. Ex. 637; ACA 3-4130; ACA 3-4131; Lancaster testimony at 5-49).

288. The 94 women housed in Dormitory #7 share 6 toilets and 6 showers, resulting in ratios of 16 inmates per toilet and 16 per shower. This is a grossly inadequate ratio, as confirmed by the standards set by both the American Correctional Association (ACA) and the American Public Health Association (APHA), which both require a ratio of no more than 8 inmates per toilet (for females) and 8 per shower. (Pl. Ex. 637; ACA 3-4132; ACA 3-4133; Duel testimony at 6-15 to 6-16).

289. Due to the dayrooms' small size and the large number of women who use them, the noise levels in the Annex dayrooms can reach exceedingly high levels. (Pl. Ex. 637; Duel testimony at 6-17 to 6-19).

290. Plaintiffs' environmental health expert measured the noise level in the dayroom in Dormitory #7 and obtained a reading of 74 decibels on the A scale (dBa) in the quietest part of the dayroom, far from the television set. By comparison, a vacuum cleaner from 10 feet away will produce a decibel level of 69 dBa. (Pl. Ex. 637; Duel testimony at 6-17).

291. Exposure to consistently high noise levels can produce stress and have an adverse effect on health. (Duel testimony at 6-18).

292. Another effect of the overcrowding is poor lighting for the lower bunks. Even at midday, a woman on a lower bunk does not have enough light to read or write without eye strain, and yet the dayrooms are too crowded and noisy to provide an alternative for any type of quiet pursuit. (Pl. Ex. 637; Duel testimony at 6-19 to 6-20).

293. There is no mechanical ventilation in the dormitories except for a handful of window air conditioners that operate during the summer months. During the winter, almost no fresh air is circulated in the dormitories, which, particularly in light of the number of occupants, leads to an increased risk of airborne illness. (Pl. Ex. 637; Duel testimony at 6-11 to 6-12, 6-50 to 6-51).

294. Carbon dioxide levels are a reliable indicator of air quality and, consequently, of the risk of airborne illness. (Duel testimony at 6-12, 6-14 to 6-15).

295. The carbon dioxide readings taken by Plaintiffs' environmental health expert Ward Duel showed that the carbon dioxide levels in the Annex dormitories were unacceptably high and that the air quality was unacceptably poor. (Duel testimony at 6-13 to 6-14).

296. In addition to the poor air quality, poor noise control, poor lighting, and poor access to sanitary fixtures

caused by the overcrowding at the Annex dormitories, overcrowding itself can cause stress and have adverse health consequences. (Duel testimony at 6-20 to 6-21).

297. A sample inspection by Plaintiffs' environmental health expert, Ward Duel, revealed that over 40% of the mattresses and pillows in the dormitories were torn. (Pl. Ex. 637; Duel testimony at 6-24 to 6-25).

298. Torn mattresses provide an ideal hiding place for bedbugs, lice, and other ectoparasites. It is also impossible to adequately sanitize a torn mattress between users, which can lead to transmission of various skin diseases. (Duel testimony at 6-24 to 6-25).

299. The walls and roofs in both Annex dormitories are very poorly maintained and frequently leak. (Duel testimony at 6-21 to 6-22; Jane Doe XI testimony at 4-149 to 4-150).

300. During the site visit of Plaintiffs' environmental health and fire safety experts in February 1994, the roof of Dormitory #7 was leaking directly onto an electrical box, which created a severe fire safety hazard. (Pl. Ex. 637; Duel testimony at 6-21 to 6-22).

301. The Annex dormitories frequently have no heat or hot water. At times, the water heater must be repaired two or three times a day. (Pl. Exs. 170; 480; Duel testimony at 6-26; Jane Doe VII testimony at 4-120).

302. The lack of hot water is not only uncomfortable but can have an adverse effect on health by discouraging good personal hygiene. (Duel testimony at 6-26 to 6-27).

303. Both Annex dormitories are infested with cockroaches, which crawl on the inmates while they sleep. (Duel testimony at 6-22 to 6-23; Jane Doe VII testimony at 4-120).

304. The poor condition of the walls and the lockers provides ideal nesting places for cockroaches, as do the torn mattresses and pillows. (Pl. Ex. 637; Duel testimony at 6-22 to 6-23).

305. Cockroaches pose a health risk because they can transmit several kinds of illnesses, including hepatitis and salmonella. The level of cockroaches at the Annex is sufficient to pose a threat for the transmission of such illness. (Duel testimony at 6-23 to 6-24).

306. The poor conditions of the dormitories and the large number of women housed there makes it impossible for the inmates to keep the dorms cleaned. (Jane Doe VII testimony at 4-120 to 4-121; Jane Doe XI testimony at 4-150).

307. The grounds of the Annex are poorly maintained and there is a critical need for an adequate drainage system. (Pl. Exs. 172, 486, 637; Duel testimony at 6-27).

308. The dumpsters on Annex grounds are left overfilled and uncovered, thus providing an attraction to

vermin, skunks, and other wildlife. (Pl. Ex. 637; Duel testimony at 6-28 to 6-29).

309. The Annex buildings and grounds are in need of an effective preventive maintenance program. (Duel testimony at 6-27).

310. The limited programs available at the Annex are offered in four "relocatable buildings," or trailers. (Duel testimony at 6-29). The trailers used for substance abuse programs and recreation have been in place for four years and are equipped with toilets and sinks, but those facilities have never been hooked up to a sewage system and are instead used as storerooms. (Pl. Ex. 637; Duel testimony at 6-30).

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

312. The women have access to the gym only two nights a week. (Lancaster testimony at 5-46; Jane Doe VII testimony at 4-105 to 4-107; Jane Doe P testimony at 4-58). On the other days of the week, the women have access only to the recreation trailer, which provides insufficient equipment and opportunity for large-muscle exercise of the type that is necessary to maintain good health. (Pl. Exs. 477, 637; Duel testimony at 6-29 to 6-30).

313. While the men who work at the industries at Central are released to eat in the dining hall, the Annex

women who work there have their meals delivered to them and eat at their work stations. (Duel testimony at 6-35 to 6-36).

314. At the time suit was filed and through at least February 1994, the women prisoners who worked at the prison industries at Central ate under unsanitary and unsafe conditions. The meals were delivered in styrofoam containers on the floor of a truck and placed on a dirty table for distribution. By the time the food arrived, it was cold. (Pl. Exs. 362, 531, 637; Duel testimony at 6-35 to 6-36; Jane Doe XI testimony at 4-140).

315. Cooked food that is not refrigerated must be maintained at a temperature of 140° or else it will provide an incubation for bacteria and food-related toxins. (Pl. Exs. 531, 637; Duel testimony at 6-35, 6-37).

316. Until at least February of 1994, the women prisoners who worked at the prison industries at Central had no readily accessible sanitary facilities. While the men had bathrooms immediately off the industry floor, the women had to use a single toilet approximately 250 feet down the hall. Because they had to be escorted to the restroom, they were only allowed to go during regularly scheduled breaks, at which time they all had to go together. (Pl. Exs. 362, 637; Jane Doe XI testimony at 4-140 to 4-141).

317. Defendants were aware of the conditions at the industry for approximately two years prior to the filing of this action, yet did nothing to abate them until just before

trial. (Gilmore Dep. Tr. at 32-39; Smith Dep. Tr. at 132-37; Gibbons Dep. Tr. at 115-17; Jane Doe XI testimony at 4-143; Brown testimony; Pl. Ex. 362).

318. The food at the Lorton Minimum Security Facility is prepared under unsanitary conditions that can be the source of foodborne illness. (Pl. Ex. 637; Duel testimony at 6-31 to 6-33).

319. The environmental conditions suffered by the women prisoners housed at the Annex pose a substantial risk of serious harm, including an increased risk of anxiety, depression, communicable diseases, and confrontations between inmates and with staff. (Pl. Ex. 637; Duel testimony).

320. Defendants have been and are now aware of the conditions at the Minimum Annex and the adverse health risks they posed to the women housed there. (Duel testimony at 6-40 to 6-41). Many of the health risks posed by the conditions at the Annex are self-evident. (Duel testimony at 6-41).

321. The periodic safety and sanitation reports submitted to the Administrator of the Minimum Facility for the Annex dormitories from 1992 to 1994 note a host of problems that were allowed to continue unabated for months and years at a time, including: excessive mold and mildew in the bathrooms; burned out and missing lights (including emergency lights); damaged window screens; exposed electrical wiring or outlets that needed securing; and missing smoke detectors. (Pl. Ex. 144; Duel testimony at 6-37, 6-41).

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

323. Knowledge of the conditions at the Annex was not confined to the Department's environmental inspectors. In July 1993, the Associate Directors of the Department were informed by Regina Gilmore, the Department's Acting Chief of Female Offender Programs that:

[The Annex] buildings "were not initially designed for continued residency and in 1989 emergency renovations were made to accommodate housing of female residents. In July 1992, the population dramatically decreased when CTF opened and upkeep suffered. In late 1992, the population quickly swelled as female offenders were returned from federal facilities and the Detention Facility transferred more women to manage crowding. . . . *Renovations and preventive maintenance have now kept pace and repair needs have reached crisis proportions.*

(Pl. Ex. 170 (emphasis added); see also Gilmore Dep. Tr. at 108-11, 126-28; Smith Dep. Tr. at 83-88; McCatharine Dep. Tr. at 187-99).

324. Among other things, Ms. Gilmore noted that there was inadequate ventilation and de-humidification in the showers and bathrooms causing excessive mold and mildew buildup and rendering some of the showers unusable; that three

of the four clothes dryers were broken, forcing residents to hang their wet clothes on bed railings and thereby increasing the humidity in sleeping areas; that only one collect call phone was working; that the hot water heater required repair one to three times a day; and that most window casements and frames were rotted and needed replacement. Ms. Gilmore also reported that "Annex staff complained that they do not receive adequate cleaning supplies to include bleach or mildew remover, floor wax and other sanitation solutions." (Pl. Ex. 170).

325. The women prisoners have repeatedly volunteered to help renovate and repair their living quarters. (Pl. Ex. 177; Lancaster testimony at 5-33; Jane Doe XI testimony at 4-152 to 4-153).

326. On June 26, 1993, Jane Doe XI, who had been incarcerated at the Annex for six months after being returned from the federal Bureau of Prisons, wrote the Associate Director of Programs that she had never seen "such run-down, nor deplorable conditions for living quarters." (Pl. Ex. 177).

327. In this letter, Jane Doe XI proposed that the women be allowed to do the necessary repairs at the Annex themselves -- many women had learned skilled trades in the federal prison system, she said, and the Department could "start programs to teach those that do not know." (Pl. Ex. 177). According to Jane Doe XI, the "federal women" were

willing to "work and help but [needed] the supplies and support to do so." (Pl. Ex. 177).

328. In July 1993, Regina Gilmore also informed the Associate Director of Programs that many residents who had the skills and motivation to repair and renovate the facility remained idle because there was no staff to supervise them. (Pl. Ex. 170; Stempson Dep. Tr. at 98-99; Smith Dep. Tr. at 88-89; Lancaster testimony at 5-33).

329. Little repair work was done at the Annex until the two weeks preceding the site visit by Plaintiffs' environmental health expert on February 23, 1994. (Pl. Ex. 480). At that time, among other things, beds were repaired in Dormitory #7; showers and toilet partitions were repaired in both dormitories; the bathroom in Dormitory #7 was painted and plastered; the tiles in the bathroom in Dormitory #7 were repaired; a counter sink top was repaired; the toilet stalls were repaired in both dormitories; damaged window screens were repaired and replaced in both dormitories; the bathroom in Dormitory #7 was touched up with grout and silicone; a sink top in Dormitory #6 was repaired; blinds were installed on the bathroom windows in Dormitory #6; the tile in the bathroom in Dormitory #6 was replaced; toilet paper holders were hung in both dormitories; and toilet seats were replaced in both dormitories. (Pl. Exs. 422, 480; Duel testimony at 6-37 to 6-40; Jane Doe VII testimony at 4-121 to 4-122).

330. Defendants' own documents recognize that poor ventilation "causes disease, nausea, headaches, eye irritation and allergies;" that light should be a minimum of 20 foot candles in personal grooming areas and 30 foot candles in reading and study areas; that noise levels should not raise about 70 dBa; and that food, if refrigerated, should be kept at temperatures of 45°F or below, and if cooked, at 140° or above. (Pl. Exs. 143, 404).

331. The modest repairs and renovations that Defendants have made in the course of this litigation in response to the recommendations made by Plaintiffs' experts and Defendants' own experts have not reduced the risk of illness and injury generated by the living conditions at the Annex to an acceptable level. (Duel testimony at 6-47 to 6-48).

CTF

332. The living conditions of the women prisoners housed at the CTF pose an unacceptable risk with respect to illness and injury. (Duel testimony at 6-4).

333. The CTF facility consists of a series of multi-level buildings connected by inside walkways. The women are housed in what is known as "E Building." E Building has four housing levels, each with two housing units. Each unit has two self-contained wings housing 32 women each in single cells. The two wings of each unit share a satellite kitchen

and dining room. (Pl. Ex. 638; Duel testimony at 6-52 to 6-53).

334. Although the building is new, the women prisoners housed at CTF are subjected to bitterly cold temperatures due to defects in the CTF heating, ventilation, and air conditioning (HVAC) system. (Pl. Exs. 145, 159, 638; Duel testimony at 6-54 to 6-56).

335. Prisoners' cells are located on the outer walls of the CTF buildings. These are solid masonry walls, with virtually no insulation and no perimeter heating, and they therefore reflect the outside temperature. Prisoners' beds are placed next to this outer wall. (Duel testimony at 6-53 to 6-54; Jones Dep. Tr. (sealed) at 189).

336. The HVAC system does not provide enough heat to warm these uninsulated cells. (Duel testimony at 6-54 to 6-55; Ray Dep. Tr. (II) at 162-64; Welch Dep. Tr. at 56-57).

337. As early as January 1993, the Administrator of CTF was reporting that all units in the women's program unit were "complaining of no heat in the rooms." (Pl. Ex. 449 (1/4/94 report at DC0030692); Pl. Ex. 145).

338. In March 1993, Jane Doe K wrote the D.C. Department of Consumer and Regulatory Affairs in the hope that something could be done about the heat at CTF:

I come to you expressing the dire need for heat in the Correctional Treatment Facility. It is imperative that someone from your offices comes out to inspect and investigate this building as it relates to the heat situation.

The institution has provided some of the residents with extra clothing and blankets, but even so, there is a large percentage of the population who did not receive such. This act of kindness is still not enough to protect us from such frigid temperatures. It was a temporary policy

(Pl. Ex. 160). These letters were eventually forwarded to the Department of Corrections Associate Director of Programs and to the Acting Chief of Female Offender Programs. (Pl. Ex. 160).

339. Jane Doe K never received a reply to her complaint. (Jane Doe K testimony at 6-119).

340. In the winter, the cells at CTF are so cold that ice and icicles form on the inside of the windows. (Jane Doe II testimony at 3-18; Jane Doe V testimony at 4-89).

341. On April 20, 1993, Walter Ridley, who was then the Director of the Department of Corrections, sent a "urgent" memorandum to the Department of Public Works -- who was responsible for the construction of CTF -- on the subject of "safety and health problems" at the facility. According to Mr. Ridley there were a number of serious problems with the facility, including in "E Building," where the women's unit is located. The letter notes that E building floods each time that it rains and that the cells are "*extremely cold with temperatures as low as 40 degrees.*" (Pl. Ex. 159 (emphasis added)).

342. According to Mr. Ridley, both staff and inmates were experiencing "an increase in colds and flu" due to the cold. (Pl. Ex. 159).

343. When Plaintiffs' environmental health expert toured the facility in February 1994, he recorded temperatures of 65° in the cells and was told that it was warmer than it had been in some time. (Pl. Ex. 638; Duel testimony at 6-54 to 6-56). The temperature was inconsistent across cells and was coldest in the cells at the end of each tier. (Pl. Ex. 638; Duel testimony at 6-54).

344. In February 1994, the equipment used to heat the outdoor air coming into the building was broken and Defendants had shut off the ventilation system in order to preserve heat. As a result, no fresh air at all was circulating inside the building. (Pl. Ex. 638; Duel testimony at 6-56).

345. Although some repairs have since been made, David White, the chief of Facilities Maintenance at CTF, has expressed reservations that they will be adequate. (Duel testimony at 6-68).

346. Because of the cold air coming into their cells through the air handling system, many women try to block the air exchange vents in their cells with toilet paper and sanitary napkins in order to preserve heat. (Pl. Exs. 147 (reports of 9/8/93, 8/3/93, 8/17/93), 150, 151; Duel testimony at 6-55; Jane Doe II testimony at 3-36).

347. This improper use of toilet paper and sanitary napkins frequently leads to a shortage of these critical supplies. (Pl. Ex. 330 [DC0018873]; Welch Dep. Tr. at 55;

Jane Doe II testimony at 3-14 to 3-15; Jane Doe V testimony at 4-92 to 4-93).

348. The temperatures at CTF are such that, until the equipment is repaired, women prisoners should not be housed in the end cells of each tier and should be issued extra blankets and long johns. (Duel testimony at 6-57; Genco testimony).

349. However, the requests of women prisoners for extra blankets to combat the cold often go unheeded; blankets are given and then taken away; extra clothing is provided only sporadically. (Pl. Ex. 160; Jane Doe II testimony at 3-18; Jane Doe V testimony at 4-89; Jane Doe K testimony at 6-116 to 6-119).

350. The air handling system at CTF is also excessively noisy. At 4:30 a.m., Plaintiffs' environmental health expert measured the noise level at 66 dBa; in an upper corridor it was nearly 10 decibels louder than that. (Pl. Ex. 638; Duel testimony at 6-57).

351. Defendants have been aware of excessive noise levels on the women's housing units since at least October 1992 when an audit was conducted of the CTF facility. (Pl. Ex. 405 [DC0025767]). The former Administrator of the CTF attributed excessive noise levels to the fact that the building was designed to be carpeted, but due to budgetary constraints had not been, and to "women's tendency to talk loud." (Pl. Ex. 330 [DC0018872]).

352. The Department's own policy states that noise levels in inmate housing units shall not exceed 70 dBa in daytime and 45 dBa at night. (Pl. Ex. 143; Duel testimony at 6-18).

353. CTF also has a pervasive problem with leaking plumbing fixtures. These leaks are often not repaired for a considerable period of time, leading to standing water, and sometimes leaking sewage, in the cells. (Pl. Ex. 638; Duel testimony at 6-60 to 6-62).

354. One effect of the plumbing defects in the building is that water leaks through to lower floors and causes the ceilings of showers to fall out. (Pl. Exs. 147 (5/6/93 report), 159, 615; Duel testimony at 6-61 to 6-62).

355. Two women prisoners were injured in separate incidents when a shower ceiling collapsed on them. (Pl. Exs. 159, 394 (5/6/93 report); Duel testimony at 6-62).

356. The environmental health problems at the facility are exacerbated by the fact that the units do not have an adequate amount of cleaning supplies. (Duel testimony at 6-62 to 6-63; Jane Doe II testimony at 3-14 to 3-15; Jane Doe V testimony at 4-91).

357. Even though it is a new facility, CTF has also experienced an infestation of mice. (Pl. Exs. 146, 152, 156, 178, 182, 183, 184; McCathorine Dep. Tr. at 204-05; Duel testimony at 6-74).

358. The temperature of the "hot" water for the handsinks and for the showers in the housing units at CTF is not hot -- ranging from the high 80's and low 90's. By comparison, the ACA recommends hot water temperatures between 100° and 120°. Lack of hot water means that personal hygiene is neglected and that the potential for transmission of disease is more likely. (Pl. Ex. 638; ACA 3-4134; Duel testimony at 6-58).

359. Defendants have temporarily addressed this problem by not running the dishwashers in the morning; however, this is not an acceptable permanent solution. (Duel testimony at 6-68 to 6-69).

360. Laundry procedures at CTF are not sanitary. Institutional laundry from CTF is transported to and from the laundry at the D.C. Jail in unlined canvas carts. Dirty laundry can be the source of illness pathogens which can survive and grow in unclean carts and then be transferred to clean laundry. (Pl. Ex. 638; Duel testimony at 6-58 to 6-59).

361. CTF is in need of an effective preventive maintenance program. (Duel testimony at 6-66).

362. Defendants are aware of the physical conditions at CTF and the risk to health and safety that these conditions pose to the occupants. (Pl. Exs. 148, 159, 183, 405; Duel testimony at 6-67).

363. Defendants are aware of the poor sanitary conditions on the women's units at CTF. In February 1994, the

Acting Director of the Women's Program was reassigned to return to her duties as Unit Manager "due to the chronic sanitation problems" experienced on the unit and "the overwhelming need for closer supervision of unit operations." (Pl. Ex. 461).

364. The periodic safety and sanitation reports submitted to the Administrator of CTF in 1993 repeatedly show problems with plumbing and heating, including that toilet facilities in E Building were not clean and in good condition; that there was standing water in shower areas; that water was leaking from the ceiling and walls; that there was no heat; and that the air exchange vents were covered to preserve heat. (Pl. Ex. 148; Duel testimony at 6-66 to 6-67).

365. According to CTF's own documents, the food at the facility is prepared under unsanitary conditions. The sanitarian at CTF periodically inspects the main and satellite kitchens using a form adapted from the inspection form used by the District of Columbia Department of Consumer and Regulatory Affairs to determine compliance of food service establishments with the District's laws and regulations. Under District law, a rating of 85% or less is prima facie evidence of failure to comply with the District's food regulations and can lead to revocation or suspension of a license. (23 DCMR §§ 2001.1, 2001.2; Duel testimony at 6-65). Out of 41 self-inspection reports completed between February 1993 and November 1993, 34

of them showed compliance ratings below 85%. (Pl. Ex. 183; Duel testimony at 6-65).

366. The food temperatures for the "hot" food served to prisoners with special medical diets is routinely in the danger zone that can allow micro-organisms to flourish and multiply in a very short time. (Pl. Ex. 638; Duel testimony at 6-64).

367. Defendants have been aware that the special diet meals are being served at these dangerous temperatures since at least October 1992. (Pl. Ex. 405 [DC0025747]).

368. In June 1993, the Assistant Administrator of the facility wrote in his monthly report to the facility Administrators that he "personally observed on a couple of occasions that the special diet meals were sent to the units in styrofoam containers. By the time it was served to the residents, it was cold." (Pl. Ex. 426 (6/30/93 report at DC0027164)).

369. In January 1994, the Assistant Administrator of Operations again noted in his monthly report that "residents continue to complain of cold meals." (Pl. Ex. 426 (1/31/94 report at DC0027210)).

370. The modest repairs and renovations that Defendants have made in the course of this litigation in response to the recommendations made by Plaintiffs' experts and Defendants' own experts have not reduced the risk of

illness and injury generated by the living conditions at the CTF to an acceptable level. (Duel testimony at 6-71).

VI. FIRE SAFETY

Annex

371. Women prisoners at the Annex face an immediate life threatening situation with respect to fire safety. (Pl. Ex. 532; Jaeger testimony at 7-45 to 7-46).

372. The dormitory buildings are of combustible construction and have a heavy combustible load, in part because of the number of occupants and the lack of adequate locker space for the women's personal belongings, forcing many women to store their belongings in cardboard boxes and garbage bags. (Jaeger testimony at 7-7 to 7-9, 7-12).

373. Both dormitories have storage areas with large amounts of flammable material, such as paper and cleaning supplies. (Jaeger testimony at 7-9). In addition, Dormitory #7 has combustible wood planking on the walls of the dormitories. (Jaeger testimony at 7-9).

374. The heavy combustible load creates a significant exposure to the occupants of the dormitories. (Jaeger testimony at 7-10).

375. There is no compartmentation in the Annex dormitories to keep a fire from spreading. (Jaeger testimony at 7-11).

376. A fire in the sleeping areas could spread from one end of the dormitory to the other in five minutes. (Jaeger testimony at 7-10).

377. At night, all but one of the exits in the dormitories are locked. In a fire emergency, the single unlocked exit, which is off of the dayroom, could be blocked by furniture or by the fire itself. (Jaeger testimony at 7-13; 7-20 to 7-21).

378. No fire alarm systems are provided in the dormitory buildings. The so-called "fire alarm" in Dormitory #6 is little more than a doorbell. It is not automatic; it is not supervised; it does not have emergency power; it does not alert anybody outside of the building. (Jaeger testimony at 7-15).

379. The smoke detectors in the sleeping areas of the dormitory provide inadequate fire protection. There are no smoke detectors in the dayrooms, bathrooms, storage rooms, or offices. In Danbury, Connecticut, a fire started in a dormitory bathroom and killed 5 people without ever spreading beyond the bathroom. (Jaeger testimony at 7-18).

380. The smoke detectors also do not provide adequate fire protection. They are not supervised; they have no emergency power; and they do not alert anybody outside the immediate area of the detector. (Jaeger testimony at 7-16).

381. The presence of portable fire extinguishers in the Annex dormitories does not provide sufficient fire

protection to the occupants of the dormitories. (Jaeger testimony at 7-19).

382. The Annex dormitories are not in compliance with the building code of the District of Columbia and should have been brought up to new building standards when they were converted to a detention and correctional occupancy in 1988. (Jaeger testimony at 7-28 to 7-29).

383. Although the dining room and gymnasium at the main compound has a fire alarm system, it is inoperative due to failure to maintain it properly and must be replaced. (Pl. Exs. 525, 532; Jaeger testimony at 7-32 to 7-33).

384. On the day of the inspection by Plaintiffs' fire safety expert, the fire exit doors in the gymnasium were locked. Even after the officer unlocked them, the doors were jammed shut and could not be opened for several minutes. (Jaeger testimony at 7-32). On the day of the inspection by Defendants' fire safety expert, the fire exit doors had to be unlocked by maintenance staff because correctional staff could not find the keys to unlock them. (Taylor testimony).

385. The Minimum Security fire emergency procedures are inadequate in that they do not inform staff how to proceed in case of fire, how to summon the Fire Department in case of emergency, or how to escort the Fire Department into the institution. (Pl. Ex. 400; Jaeger testimony at 7-21 to 7-22).

386. Although the Minimum Facility's Division Operating Procedures require an annual inspection by the Fire

Department, there is no evidence that those inspections are being conducted. (Pl. Ex. 400; Jaeger testimony at 7-38).

387. Although some fire drills have been conducted at the Annex, the number and variation of the drills was inadequate. (Pl. Ex. 395; Jaeger testimony at 7-22 to 7-25). Drills should be conducted quarterly on each shift. (Jaeger testimony at 7-22 to 7-25).

388. The Annex staff do not receive ongoing fire safety training and are not prepared to deal with a fire emergency. (Jaeger testimony at 7-25 to 7-27).

389. Fire drills and fire safety training are of paramount importance in a detention and correctional facility because the inmates are not considered "capable of self-preservation," i.e., by virtue of their incarceration they cannot always freely evacuate a building. (Jaeger testimony at 7-20, 7-24).

390. The fire safety conditions at the Annex pose a substantial risk of serious injury to the women who live there. (Jaeger testimony at 7-5).

391. Defendants are well aware of the poor fire safety conditions at the Annex. As early as April 1992, the Administrator of the Minimum Security Facility requested that fire alarms be installed in both dorms "as required by the Fire Marshall's inspection and Deputy Director Quander." (Pl. Ex. 485).

392. On December 16, 1992, Corporal Hershel Pleasant, the officer in charge of fire safety at Minimum informed the Acting Assistant Administrator for Operations, Barbara Hart, that "the clothes and other personal belongings of the Residents could not be properly store[d]" because "the facility is out of foot lockers and wall lockers." Corporal Pleasant emphasized that this created a "dilemma" because "residents are using makeshift lockers out of cardboard boxes thus facilitating a fire hazard." (Pl. Ex. 398). That situation continues to exist today. (Jaeger testimony at 7-9).

393. On January 24, 1994, Corporal Pleasant informed Ms. Hart that he had catalogued a number of fire hazards in the dormitories and that "[b]ased upon [his] direct observation, the severity of the deficiencies in most instances would indicate they should be made top priority, but they're merely ignored." (Pl. Ex. 403).

394. On April 8, 1994, the Administrator of the Minimum Facility requested funding to fund installation of a fire alarm because "[t]he lack of a working, compliant fire alarm system creates hazardous living and working conditions at the institution. Overcrowding has further exacerbated the risk." (Pl. Ex. 525). The Administrator further stated that "[t]he investment in a new fire alarm system is likely to be much less than the liability resulting from a lawsuit" and that "[f]unding of a new fire alarm system is a necessary and

recommended priority because of the unsafe conditions" at the facility. (Pl. Ex. 525).

395. With respect to the system at the main compound, which is inoperative, the Administrator has admitted that "[h]ad the current system been properly operated and maintained, a new fire alarm system would not be needed; years of neglect and improper operation have rendered the current system inutile." (Pl. Ex. 525).

396. The Administrator of the Minimum Facility and the Department's Fire Marshal have selected Systems Engineering, Inc. (SEI) to install a fire alarm system at the facility. (Pl. Ex. 525).

397. The proposal submitted by SEI to improve fire safety at the Minimum facility, including the Annex, states that:

In SEI's professional opinion, the Minimum Security Facility constitutes an immediate life threatening situation. The problem has been exacerbated by the over-crowding condition of the Minimum Security Facility. There are hundred of inmates and staff and the Minimum Security Facility, and there is no means of fire detection or evacuation.

(Pl. Ex. 532).

398. The SEI proposal describes the "problems" with the current system at Minimum as follows:

The Administration Building, the Gym, the Cafeteria, and Dormitories 1 thru 4 have a Fire Control Instrument (FCI) FC-72 fire alarm panel with a Dukane evacuation system. Dormitory 5 has a Firelite Miniscan fire alarm panel. The physical conditions of these fire alarm system are very poor. All the panel reference above are in similar condition. *The fire alarm panels are not*

operational, meaning they will not initiate alarms, they will not ring evacuation alarms. The Dukane voice evacuation systems have been removed. The field devices are also in very poor condition. The smoke detectors are filthy or painted, the manual stations are broken or inoperable. The devices must be replaced.

The remaining buildings or trailers have no fire protection. The remaining buildings are Dormitory 6, Dormitory 7, Medical Trailer, Program Trailer A, Program Trailer B, Recreation Trailer, Substance Abuse Trailer and the Receiving and Discharging Building.

(Pl. Ex. 532) (emphasis in original). The buildings that SEI describes as "having no fire protection" are all located at the Minimum Annex where the women prisoners are housed.

399. At the time of trial, no immediate steps were being taken to address this life threatening situation. Instead, the Deputy Director had ordered a "survey" conducted. There was no indication of who was conducting this survey or when it would be complete. (Quander testimony).

400. Despite their longstanding knowledge of the unsafe conditions at the Minimum Security Facility, and the Annex dormitories in particular, Defendants have failed to take reasonable steps to alleviate these conditions.

CTF

401. Although CTF has a state-of-the-art fire protection system, the facility does not test its equipment regularly and thus cannot guarantee that it will actually operate in case of an emergency. (Jaeger testimony at 7-39 to 7-41).

402. Moreover, until otherwise instructed by their own fire safety expert, Defendants did not allow officers on the housing units to carry keys to unlock the fire alarm pull stations on the units. Thus, in the event of a fire emergency, the staff could not use the alarm and the system was essentially inoperable. (Jaeger testimony at 7-43).

403. Water leakage from rain in the CTF buildings creates a severe hazard due to the exposure of electrical equipment. (Jaeger testimony at 7-39).

404. Defendants have stored combustible material in the storage room so close to the ceiling that even if the sprinklers were to go off, they would not be effective because the reach of the water would be very limited. (Jaeger testimony at 7-44 to 7-45, 7-49).

405. The frequency and distribution of fire drills at CTF is inadequate and the operational procedures for responding to fire emergencies by staff are inadequate, so much so that staff and inmates have complained about the lack of fire drills. (Jaeger testimony at 7-43 to 7-44).

406. In July 1993, the Acting Chief Medical Officer, Dr. Eliza Taylor, informed her supervisor that she had "requested a fire drill" and that "[s]taff really needs to go through a mock evacuation drill." Three months later, she again complained that the officer in charge of fire safety "had been approached on several occasions regarding mock evacuation drills." According to Dr. Taylor, "[t]here has to

be a concerted effort on the part of the medical staff and security because of the difficulty with movement in this facility." (Pl. Ex. 394).

407. The fire safety conditions at the CTF are inadequate and below any national standard. (Jaeger testimony at 7-6).

408. The failure to properly maintain the fire alarm, detection, and suppression systems at CTF, and the fact that the fire alarm system at the main Minimum compound was allowed to deteriorate to the point where it is inoperable, shows that this Court's continuing oversight is necessary to ensure that a fire alarm system is properly installed.

June L. Green
U.S. District Judge

DATED: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of July, 1994, I caused a copy of the foregoing Plaintiffs' Revised Proposed Findings of Fact, Revised Conclusions of Law, and Revised Proposed Order for Declaratory and Injunctive Relief to be sent by first class mail, postage pre-paid, to:

Maria Amato, Esq.
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A handwritten signature in cursive script, reading "Tracy A. Thomas", is written over a solid horizontal line.