

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

Genise Hart, Carmen Feliciano,)	
Ann Francis Gelco, Helen Koss)	
Caprice Morales and)	
Michelle Gandy, individually and)	
and on behalf of a class,)	
)	
)	
Plaintiffs,)	No. 03 C 1768
)	
vs.)	JUDGE: James Zagel
)	MAGISTRATE: Ashman
THOMAS DART,)	
SHERIFF OF COOK COUNTY,)	
in his official capacity, and)	
Cook County)	

**PLAINTIFFS' SUPPLEMENTAL
MOTION FOR CLASS CERTIFICATION**

Now comes the Plaintiffs, by and through their attorneys, Thomas G. Morrissey, Ltd., and Robert H. Farley, Jr., and supplement their Motion for Class Certification as follows:

I. Introduction.

Plaintiffs' previously filed a Motion for Class Certification (Doc. 73) and a Memorandum in support of the Motion for Class Certification in July, 2005. (Doc.75) The Plaintiffs' sought certification of the following class:

The class shall consist of all former female inmates at the Cook County Department of Corrections who had been subjected to non-emergency, extended lock downs over a weekend after their tier had been searched at the Jail and who were not incarcerated on March 11, 2003. The class shall also include those inmate who were incarcerated at the time of the filing and who had exhausted their available remedies prior to March 11, 2003.

On August 14, 2008, in addressing the denial of Plaintiffs' Motion for Class Certification, this Court stated that it would allow Plaintiffs' to file a supplemental Motion for Class Certification proposing a narrower class than previously requested.

II. Amended Class Definition.

The Plaintiffs' now seek certification of the following class:

All former female inmates in Division III at the Cook County Department of Corrections, during the period between March 11, 2001 through March 11, 2003, were subjected to a risk of serious harm by an unreasonably protracted detention of them, out of sight and hearing of the guards, and who were not incarcerated on March 11, 2003.¹ The class shall also include those inmate who were incarcerated at the time of the filing and who had exhausted their available remedies prior to March 11, 2003.

III. Division Three Houses Female Inmates With Special Needs.

The risk of serious harm to the health and safety of female inmates during protracted weekend lock downs was more acute In Division Three of the Jail due to the special medical needs of the women. During the period when the Sheriff held weekend lock downs, female inmates in need of medical and/or psychological treatment were housed in Division Three. Women who were pregnant; women who were diagnosed with mental health illnesses; women suffering from substance abuse; and women with serious medical needs were assigned to Division III. (Plts. Addl. Facts 111, 113) A Jail procedure which calls on correctional officers to check on the status of prisoners only every thirty minutes may be constitutionally sufficient for inmates housed in the general population but deficient to insure the safety and health of women

¹ In contract to Division IV which has 16 living unit tiers, Division III has only 6 living unit tiers and Division III houses inmates with medical and psychological issues. (Plts. Addl. Facts 26, 103, 110, 111)

confined in a division housing women with psychological and/or serious medical needs. See *Billman v. Ind. Dep't of Corrs.*, 56 F.3d 785, 788 (7th Cir. 1995) suggesting that a “substantial risk’ could exist where a prison official place a detainee in a cell in which “they know that there is a cobra there or at least that there is a high probability of a cobra there.” See also, *Brown v. Budz*, 398 F.3d 904, 911 (7th Cir. 2005) a substantial risk can also include risk attributable to prisoners with know propensities of violence toward a particular individual or class of individuals, to highly probable attacks and to particular prisoners who pose a heightened risk of assault to the plaintiff.

The design of Division Three also calls into question the need for extended weekend lock downs which put the health and safety of the inmates at risk. In contrast to Division Four which had sixteen tiers and provided housing for the general female population, Division Three has only six tiers (living units). In Division III, there is no direct access from one tier (wing) to the other tier (wing) on the same floor. There is no way for an inmate to pass contraband to from one dayroom in a tier to another dayroom in a tier. (Plts. Addl. Facts 112, 113)

IV. Plaintiffs Have Met The Prerequisites For A Class Action.

For the reasons previously set forth before this Court in Plaintiffs’ Motion for Class Certification and Reply to Class Certification, the Plaintiffs have satisfied numerosity, commonality, typicality, adequacy of representation and Rule 23(b)(3) requirements. Under Rule 23(b)(3) a class action in this case is superior to other available means for a fair and efficient adjudication of this controversy. The damages suffered by individual class members are small compared to the burden and expense of individual prosecution of the action to address Defendants’ unconstitutional conduct.

Wherefore, the Plaintiffs request that this Court enter an order certifying a class with the above stated class definition under Rule 23(b)(3).

Respectfully submitted,

/s/ Thomas G. Morrissey
One of the Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I, Robert H. Farley, Jr., Attorney for the Plaintiffs, deposes and states that he caused the foregoing Plaintiffs' Reply to Defendants' Response to Plaintiffs' Supplemental Motion for Class Certification, by electronically filing said document with the Clerk of the Court using the CM/ECF system, this 24th day of September, 2008.

/s/ Robert H. Farley, Jr..

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