

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF LOUISIANA

LOUIS HAMILTON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. 69-2443
	)	Section LLM (5) Consolidated
	)	With Civil Action Numbers:
ERNEST N. MORIAL, et al.,	)	87-5867, 88-3736, 88-1162,
	)	88-5564, 89-1084, and 94-2502
Defendants.	)	

SECOND AMENDED COMPLAINT

Plaintiffs, on behalf of themselves and the class alleged herein, amend their Complaint and state as follows:

I. PRELIMINARY STATEMENT

1. This case originated in 1969 and pursuant to that action a class was certified consisting of all those persons incarcerated in the facilities then operated by the Criminal Sheriff for the Parish of Orleans. The action was brought for preliminary and permanent injunctions with regard to prison conditions under the provisions of 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. 1981, 1983, 1985 and 1986, to enjoin defendants from subjecting the persons so incarcerated, to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments. The defendants in the suit were the Mayor, the City Council, the Superintendent of Police, the City Attorney, the Superintendent of Fire, the Superintendent of the Department of Health, and the Criminal Sheriff and the Wardens of New Orleans.

2. The plaintiffs alleged, in essence, that the conditions existing in the prison then operated by the Sheriff's Department

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were in violation of their Eighth Amendment right to be free from cruel and unusual punishment, and were also in violation of the Fourteenth Amendment. They complained that the buildings in which they were housed were in a state of deterioration, that fire safety and sanitary conditions were unsafe, that medical care was inadequate, that the prison was overcrowded, that there was an insufficient number of guards, and that the prisoners were subjected to assaults by other prisoners, as well as other matters regarding prison conditions.

3. In 1985, after many of the offending conditions had been corrected, the case was administratively closed. However, as conditions at the Orleans Parish Prison deteriorated in the ensuing years, several new actions were initiated seeking class-wide injunctive relief. Among these were Robinson v. Foti, 88-5867 and Estevez v. Foti, 88-1162. In addition to Sheriff Charles C. Foti, these cases named as a defendant the Secretary of the Louisiana Department of Corrections, C. Paul Phelps. These cases were consolidated with each other and a new class was certified consisting of all persons who have been or will be confined within the custody of the Criminal Sheriff of Orleans Parish, and housed at facilities known as the Old Parish Prison (OPP), Community Correctional Center (CCC), House of Detention (HOD), Central Lock-up (CLU), and the Emergency Housing Unit (Tent City).<sup>1</sup> Shortly afterward, the Hamilton case was reopened, consolidating the

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<sup>1</sup> The Emergency Housing Unit (Tent City) has since been closed.

Estevez and Robinson cases with it and directing that all future pleadings be filed under the present caption. In 1990, David Ramsey, Secretary of the Louisiana Department of Health and Hospitals, was added as a defendant. Thus, the current defendants are Criminal Sheriff of Orleans Parish Charles C. Foti, Mayor of the City of New Orleans, Mark Morial, Governor of the State of Louisiana, Edwin Edwards, Secretary of the Louisiana Department of Corrections, Richard Stalder, and J. Christopher Pilley, Secretary of the Louisiana Department of Health and Hospitals.

4. In consideration of the number and complexity of the issues raised in the several consolidated actions, and the urgency of the allegations relating to medical and psychiatric care, those claims were tried first, as Phases I and II of the litigation. The medical claims were resolved by the entry of a comprehensive consent judgment in June 1991, and the mental health claims are the subject of a September 1991 Court Order establishing a program for psychiatric care at the prison. In January 1992, an Amended Complaint was filed delineating the remaining issues in the case to be tried as Phase III. Thereafter, the remaining conditions claims were resolved by the entry of an environmental Consent Decree on November 22, 1993.

5. In July 1994, a new action, Lambert v. Morial, 94-2502, involving female inmates, was initiated. On December 21, 1994, with the consent of all parties, the Court (1) expanded the class in the Hamilton litigation to "any and all inmates housed in the Community Correctional Center, House of Detention, Old Parish

Prison, Templeman I, II, and III, and any and all female inmates housed in any facility in the Orleans Parish Prison System," (2) extended the June 10, 1991 consent decree on medical issues, the plan for a psychiatric program, and the January 14, 1994 environmental consent decree to cover the amended class, and (3) transferred and consolidated the remaining issues in the Lambert case into the Hamilton case -- to be handled as Phase IV of Hamilton. The purpose of this amended complaint is to delineate the remaining issues before the Court to be addressed in Phase IV of the case.

6. Plaintiffs seek declaratory and injunctive relief for deprivations under color of state law of their rights, privileges and immunities secured by the Constitution of the United States. Plaintiffs specifically seek relief from conditions at these facilities which fall below the standards of human decency, deny basic human needs, and inflict needless suffering on prisoners. Plaintiffs incarcerated in these facilities contend that they have been forced to live in an environment where the ill effects of particular conditions, exacerbated by overcrowding and other conditions, threaten their physical and mental well-being and result unnecessarily in their physical and mental deterioration. The imminent risks that the existing conditions of these facilities pose to the health and welfare of those confined require the immediate attention and action of this Court.

## II. JURISDICTION

7. This Court has jurisdiction of this action under 28 U.S.C. § 1331 since this is an action in which the matter in controversy arises under the Constitution and laws of the United States.

8. This Court also has jurisdiction of this action under 28 U.S.C. § 1343(4) since this is an action to secure declaratory relief.

## III. PLAINTIFFS

9. Louis Hamilton was the designated class representative when the class was certified in 1970 consisting of all persons incarcerated in the facilities then operated by the Criminal Sheriff of Orleans Parish.

10. Jerome Robinson, Jorge Estevez, Gilbert Sanchez, Eric Broyard, Kirk Shaffer and Wilfred White, Ann Mosley, Warren Williams, Felton Thompson, Kenneth White, William Sutton and Kenneth Linn are all plaintiffs in one of the following pro se prisoner cases: Estevez v. Foti, 88-1162, Robinson v. Foti, 87-5867, Williams v. Felton, 88-5564 or Linn v. Foti, 88-3736. These cases have all been consolidated and a class was certified in 1989 consisting of all inmates, present and future, currently incarcerated in the Orleans Parish Prison system in the following facilities: Old Parish Prison, Community Correctional Center, House of Detention, Central Lock-up, and Emergency Detention Center, i.e., Tent City. Each of these prisoners is currently or was at the time the class was certified confined in one of the subject facilities.

11. At the time the Lambert case was brought and certification was sought, plaintiff Serelda Lambert was incarcerated as a sentenced prisoner at the South White Street jail. Prior to that time she was housed in various Orleans Parish Prison facilities, including Rendon Street. She suffered violations of her constitutional rights while confined at those facilities.

12. At the time the Lambert case was filed and class certification sought, plaintiff Pamela Edwards was a pretrial detainee at the South White Street jail. Prior to that time she was housed in various Orleans Parish Prison facilities, including Rendon Street. She suffered violations of her constitutional rights while confined at those facilities.

#### IV. DEFENDANTS

13. Charles C. Foti is sued in his official capacity as the Criminal Sheriff of Orleans Parish and as the custodian of the Orleans Parish Prison pursuant to LRS 15:704 and 33:1519.1. As the Sheriff of Orleans Parish, Sheriff Foti is responsible under state law for the general supervision and control of the Orleans Parish Prison, including the conditions, practices and policies. He is also charged with the duty of safely confining the prisoners at the Orleans Parish Prison.

14. Mark Morial is sued in his official capacity as the Mayor of the City of New Orleans and as the person responsible for the expenses of establishing, maintaining and operating the Orleans Parish Prison pursuant to LRS 15:702 and 33:1523.1.

15. Edwin Edwards is sued in his official capacity as the Governor of the State of Louisiana and, through his delegees, as the person responsible for the care of prisoners sentenced to the custody of the Louisiana Department of Corrections, and patients committed to the Department of Health and Hospitals, who are currently confined in the Orleans Parish Prison.

16. Richard Stalder is sued in his official capacity as the Secretary of the Louisiana Department of Corrections and as the custodian of prisoners sentenced to the custody of the Department of Corrections who are currently confined at the Orleans Parish Prison.

17. J. Christopher Pilley is sued in his official capacity as the Secretary of the Louisiana Department of Health and Hospitals and as the custodian of Department of Health and Hospitals' patients currently confined at the Orleans Parish Prison.

#### V. CLASS ACTION ALLEGATIONS

18. This is a class action under Rules 23(a) and 23(b)(1) and (2) of the Federal Rules of Civil Procedure.

19. Plaintiffs are representative parties of a class of all persons who are confined within the custody of Defendant Sheriff Foti, at the Old Parish Prison, Community Correctional Center, House of Detention, Central Lock-up, Templeman I, II, and III, and any and all female inmates housed in any facility in the Orleans Parish Prison System, or who will be so confined in the future. As noted in Paragraphs 3 and 5, a class has been previously certified consisting of prisoners in all of the above-referenced facilities.

20. Plaintiffs' claims are typical of all class members. Plaintiffs are represented by competent counsel and will fairly and adequately protect the interests of the class.

21. The class is so numerous that joinder of the members is impracticable. Current members of the class of prisoners number approximately 5,000.

22. The lawsuit challenges various conditions of confinement and there are questions of law and fact common to the class.

23. The defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class.

## VI. FACTUAL ALLEGATIONS

### A. Phase I - Medical Care

24. Medical services provided to prisoners have been totally inadequate and have constituted deliberate indifference to prisoners' serious medical needs. Emergency, routine and basic preventive care has been inadequate. Routine screening of newly admitted prisoners has not been done prior to placement in the general population of the facility. Health care services have been completely disorganized with virtually no leadership or system of authority. The system has been run through a series of contracts between Charity Hospital of New Orleans, Sheriff Foti, the City of New Orleans and the Department of Health and Hospitals. The City has not fulfilled its obligations on those contracts by making the required payments. As a consequence, the Department of Health and Hospitals and the Charity Hospital of New Orleans have not increased the level of services since the initial contract was



executed in the early 1980s. In fact services have decreased.

25. As a direct result of the lack of organization, leadership and resources described above, such essential services as intake screening, sick-calls, follow-up care, emergency care, specialty consultations, HIV care, charting and record keeping, pharmacy, radiology, and quality assurance have not routinely been provided to prisoners on a timely and medically necessary basis. The failure to provide these services has contributed to unnecessary suffering and death.

26. On June 10, 1991, the Court approved and entered as an Order of the Court the Agreed Entry on Medical Care negotiated by the parties. The agreement establishes a comprehensive system of medical care at the prison and requires the defendants to obtain certification from the National Commission on Correctional Health Care as a precondition to compliance with the judgment of the Court. When the defendants had not complied with the June 1, 1991 deadline for achieving full compliance with the provisions of the Agreed Entry, Dr. Joseph T. Hamrick was appointed as the Court's expert for the purposes of monitoring compliance. Such monitoring is ongoing. On December 21, 1994 the Court expanded the Hamilton class to include prisoners in Templeman I, II, and III, and all female prisoners housed at Orleans Parish Prison, extended the medical consent decree to all members of the newly defined class, and notified Dr. Hamrick of the additional facilities and class members covered by the litigation for the purpose of monitoring compliance and effecting a remedy. Defendants have not fully implemented the terms of the Agreed Entry on Medical Care, and

continued enforcement is necessary to provide a constitutional level of medical services.

B. Phase II - Mental Health Care

27. Services to mentally ill prisoners and detainees have been inadequate and have constituted deliberate indifference to prisoner needs. There have been many significant problems regarding the provision of minimally adequate mental health services to severely mentally ill inmates at Orleans Parish Prison. These problems originated from a significant dispute between the Sheriff's department and the Louisiana Department of Health and Hospitals concerning which agency is responsible for treatment of mentally ill inmates at Orleans Parish Prison. Basic principles governing the delivery of psychiatric services in jails and prisons have not been followed within the mental health system at Orleans Parish Prison. There appear to be no formal policies and procedures addressing issues concerning the use of restraints and seclusion, mental health evaluations, involuntary medications, confidentiality, informed consent, education and training of correctional staff, and other very basic components of minimally adequate mental health treatment systems. Psychiatric hospital beds have not been available to a significant number of inmates in need of such treatment, including Department of Health and Hospitals patients remanded to state-forensic facilities. These deficits in the mental health system have resulted in the lack of essential mental health services for severely mentally ill inmates at Orleans Parish Prison and resulted in unnecessary suffering and death.

28. Prior to the commencement of trial on this claim, the parties entered into a stipulation in which the defendants confessed liability, and agreed to waive the trial and to develop a remedy for the provision of mental health care at the prison. On September 9, 1991, the Court entered an Order requiring the defendants to develop a plan for the delivery of mental health services that conforms to the standards established by the National Commission on Correctional Health Care. When this plan was not completed by April 1992, the Court appointed an expert, Dr. Howard Osofsky, to develop and implement an adequate psychiatric plan. The plan is currently being developed and will be the subject of future proceedings. On December 21, 1994, the Court expanded the Hamilton class to include prisoners in Templeman I, II, and III and all female prisoners housed at Orleans Parish Prison, extended the benefits of the psychiatric plan to all members of the newly defined class, and notified Dr. Osofsky of the additional facilities and class members covered by the litigation for the purpose of investigating their complaints and incorporating them into the remedy. Additionally, to alleviate the failure of the Department of Health and Hospital to transfer patients in a timely manner to state facilities, the Court has established a mechanism to expedite the process that requires a Department of Health and Hospitals representative to respond monthly to a standing order to show cause to justify any delays in transfers to state facilities. Defendants have not fully implemented the terms of the Order and continued enforcement is necessary to provide a constitutional level of mental health care.

C. Phase III - Conditions

As discussed in paragraphs 4 and 5, the allegations below have been resolved by the entry of an environmental consent decree. Compliance with that consent decree is being monitored, and non-compliance will form the basis of enforcement proceedings.

Crowding

29. From the outset of this case, plaintiffs have alleged overcrowding in all Orleans Parish Prison facilities. Many of the allegations made herein have been derivative of overcrowding. The Court has declined to address overcrowding directly, in deference to Williams v. McKeithen, 71-98-B, currently pending before Judge Polozola in the Middle District of Louisiana, which gives the United States District Court for the Middle District of Louisiana jurisdiction to control population levels in the state jails. Although the district court in Williams has ordered a population cap on all Louisiana prisons and jails, it has left to the judgment of the supervising judge in the Hamilton litigation whether conditions at Orleans Parish Prison are constitutional within the population limits established in Williams. If the offending conditions can not be remedied without resort to a decrease in the population, plaintiffs are free to pursue their claim in the Williams case. In a status conference immediately prior to the commencement of Phase III, attended by the parties and both Judge Polozola and Magistrate Judge Chazez, Judge Polozola ruled that plaintiffs must first proceed with the non-overcrowding issues in the Hamilton litigation before seeking population relief in the Williams case.

30. Plaintiffs have sought relief from conditions which fall below minimum standards of human decency, and deny basic human needs. Plaintiffs allege that they have been forced to live in an environment where the ill effects of particular conditions threaten their physical and mental well-being and result in their physical and mental deterioration.

Personal Hygiene, Clothing and Bedding

31. Basic personal hygienic supplies have either not been provided or have been inconsistently provided. Soap, toothpaste and brushes, toilet paper, deodorant, and sanitary napkins have been unavailable or in short supply. Some of these items are sold in the commissary but prisoners cannot afford to purchase them.

32. Basic clothing has not been provided. Generally prisoners have been provided with one or two pairs of pants and shirts (two uniforms). Everything else, shoes, socks, underwear, pajamas, warmer clothes for outside has to be provided by the prisoner by way of his or her relatives and friends. Those prisoners with only one shirt and one pair of pants can not launder them because they have nothing to wear in the interim. Laundry facilities consist in some cases of prisoners washing clothes in toilet bowls.

33. Bedding has also been limited. Prisoners have been issued one or two blankets but no sheets, pillows, or an adequate supply of towels. Mattresses have frequently been torn and/or soiled, creating both a public health and fire safety hazard.

### Exercise and Personal Safety

34. Prisoners have not been provided adequate opportunities to exercise in order to sustain health or to positively or profitably spend their time. Recreation has frequently been limited to one hour or less per week. Cancellations due to inclement weather have not been made up and there has been no indoor area for exercise. In many areas of the prison, prisoners have been virtually locked down in their crowded cells and dormitories for months and years on end. These conditions have been particularly harsh on prisoners serving long sentences at Orleans Parish Prison. In colder weather, no suitable clothing has been provided even if prisoners are brought outside. There has been little equipment available and no organized or structured recreational program for Orleans Parish Prison prisoners. The lack of recreational opportunities has been exacerbated by crowding and the lack of space.

35. Violence and/or the threat of violence have been endemic at Orleans Parish Prison, resulting in physical injury and death. This situation has been exacerbated by a number of factors including excessive crowding; almost complete idleness; the lack of exercise opportunities; insufficient staff supervision; the availability of weapons; the presence of mentally ill prisoners housed in the population; the absence of an effective classification system separating the violent from the non-violent offenders and the pretrial from the sentenced long-term offenders; and a failure to adequately train and compensate staff. Inmate-on

-inmate fighting and assaults and staff abuse and beatings of prisoners have not been uncommon and have resulted in serious injuries.

36. In the disciplinary segregation unit, assaultive prisoners have routinely been locked down with other assaultive prisoners, two or more to a cell. This dangerous practice has led to inmate assaults and injuries.

37. Juvenile offenders have been housed in several adult facilities, including OPP, HOD/CLU, and the Templeman Facility. Insufficient measures have been taken to adequately isolate them from adult prisoners and have jeopardized their safety. Juveniles in Orleans Parish Prison have been moved to a separate facility as a result of this litigation. However, juveniles tried as adults are still housed in adult facilities.

#### Physical Environment/Environmental Safety and Health

38. Conditions vary considerably from facility to facility, depending largely on their date and type of construction and the extent of renovation. Nevertheless, the physical conditions described below have been common to each of the facilities unless otherwise indicated.

39. Sanitation throughout the Orleans Parish Prison facilities, including sanitation in housing, food preparation and serving areas, have been grossly inadequate. Prisoners have been required to eat in their cells or in other housing areas not adequate for the serving or consumption of food. As a direct result of this, vermin such as mice and roaches have been found in the housing areas of many of the facilities.

40. Toilet and shower areas have been particularly foul. Housekeeping rules have been inconsistently enforced. Cleaning equipment and supplies have not been available. Prisoners have no personal storage space and keep their belongings in plastic bags or under their mattresses. As a result of this, living areas have been cluttered with personal belongings and garbage creating both a public health and fire safety hazard.

41. In the older facilities the plumbing has been in disrepair. There have been leaking pipes, ceilings and roofs. Even in the new facilities, there has frequently been a lack of water pressure or hot water. Sanitary fixtures such as toilets, urinals, lavatories and showers have been poorly maintained. Repairs have not been made promptly. Given the population of the housing units, there have been inadequate numbers of such fixtures to serve this population. In some units, toilet and shower facilities have not been available to the prisoners housed there for large periods of the day. In others, prisoners have been limited to just five or ten minutes in the showers.

42. Ventilation in all facilities, including those which have installed central air conditioning and heating, has been totally inadequate. Ventilation systems have often been broken and improperly maintained, recirculating the same stale air. Living areas have been unbearably hot in summer, and cold in winter. Many windows have been broken-out or inoperable, contributing to the uneven temperatures. Lighting has been inadequate for reading or other close work. Most of the living areas have had no furniture or furniture that is broken or worn-out, leaving prisoners with no



place to sit, eat or work. Noise has been unbearable throughout the facilities.

43. There has been insufficient space for housing prisoners throughout the Orleans Parish Prison. Men and women have been consistently forced to sleep on bunks stacked three and four high, and on floors in cells already filled to capacity, as well as in dayroom areas not designed for housing. In the holding tanks in the CLU, prisoners have been confined in crowded large cells where they must sleep without mattresses or bedding on benches for days at a time. Detainees under the influence of drugs or alcohol, or those that are mentally ill, have routinely been placed in the holding tanks with other detainees, frequently creating a disturbance through their unpredictable conduct or by becoming ill. Subsequent to the entry of the January 14, 1994 consent decree, the CLU has been closed, and a new unit opened.

44. The danger of fire has been ignored and basic fire safety measures have not been taken. Smoking policies have not been enforced or have been enforced inconsistently. Personal belongings, including papers and clothing clutter the housing areas. Metal lockers or cabinets have not been provided and prisoners store their things in paper and plastic bags and in cardboard boxes. The crowding of beds, furniture and people in cellblocks and dorms makes evacuation in case of fire problematic and a threat to life and limb. Broken locks, blocked exits, lack of smoke detectors, extinguishers and fire drills add to the danger.

45. As noted in paragraph 4, prior to the commencement of trial on these conditions claims, on November 22, 1993, the parties entered into a Consent Decree which provided for specific renovations to the physical plant of several enumerated Orleans Parish Prison facilities, required compliance with State Health, Safety, Fire and Building codes, and established guidelines for the provision of recreation, programming, clothing, bedding, personal hygiene, security and classification, and disciplinary practices. Defendants are being monitored for compliance with the consent decree and are subject to enforcement proceedings. On December 21, 1994, the Court: 1) expanded the class of the Hamilton litigation to include all prisoners housed in Templeman I, II, and III, and any female prisoners housed in any Orleans Parish Prison facility; 2) extended the conditions consent decree to all members of the newly defined class, and 3) transferred and consolidated the newly raised issues -- physical plant of South White Street, Rendon Street, Orleans Parish Prison practices specifically affecting women prisoners, and legal access -- into the Hamilton case, to be handled as the fourth phase of Hamilton.

D. Phase IV - Conditions and Practices in the Women's Facilities and Legal Access

46. Plaintiffs reallege and incorporate in this section the allegations contained in ¶¶ 16-44 of this complaint. It is expected that the extension of the medical, psychiatric and conditions remedial orders entered in Phases I, II, and III of this case will redress those allegations as they effect female prisoners. Defendants are being monitored for compliance with the

several consent decrees and various orders and are subject to enforcement proceedings. Complete relief, however, will require specific renovations, remedies or measures tailored to the confinement of female prisoners in Rendon and South White Street, Templeman III, or wherever else they may be confined.

47. The only claims from the Lambert complaint not resolved by the Court's action in expanding the Hamilton class and extending the scope of the remedial orders in that case, are the subject of Phase IV of this litigation, set out below in ¶¶ 48-75. Plaintiffs allege that the conditions and practices described below violate plaintiffs' rights under the First, Fourth, Fifth, Eighth, and Fourteenth Amendments.

#### Physical Plant and Environmental Conditions

48. Female prisoners are housed in a number of facilities, two of which are specifically designated for them at this time: South White Street and Rendon Street. Female prisoners are also housed in Templeman I and III and in the House of Detention.

49. Female prisoners are crowded into these facilities in open bay dormitories and are confined inside, almost without exception, twenty-four hours a day.

50. Due to the physical layout of the facilities and the population density, there is no receiving tier for new arrivals to be housed while they are medically cleared and classified. As a matter of policy and practice, defendants house newly received inmates in general population, which increases the risk of exposure of staff and prisoners to communicable diseases, such as tuberculosis and crabs.

51. Unlike their male counterparts, female prisoners with ambulatory or chronic medical problems are not provided with either an infirmary or step-down unit.

52. Because of the physical layout of the facilities and the population density, defendants are not able to provide adequate segregation housing for special management prisoners including prisoners with mental illnesses, predators, and persons in need of protection. The few cells set aside in the SWS facility are used almost exclusively to house immigration holds in virtual lock-down status. Therefore, there is an atmosphere of chaos and disorder which pervades each of these housing units.

53. In Templeman III, there are no emergency buzzers accessible during lockdown, no guards posted in the cell-block area, and no clear visibility into the cell-blocks from the control module. Prisoners are unable to contact guards in the event of an emergency, creating the risk of serious injury.

54. The conditions described in ¶¶ 48 through 53, above, among others, subject plaintiffs to life-threatening conditions of confinement.

#### Sexual Misconduct and Degrading Treatment

55. In this phase of the litigation, allegations of sexual misconduct, harassment and degrading treatment arose in the context of investigating conditions in specific women's facilities not governed by the previous consent decrees. However the problems exist system-wide, in all facilities which house women. On information and belief, certain Orleans Parish Prison officers have

engaged in a pattern and practice of sexually assaulting female inmates and extracting sexual favors from them. These officers also allow male inmate trustees to extract sexual favors from female inmates. This conduct frequently occurs incident to placement in the disciplinary segregation or the mental health units or during transport to court. Due to the nature of this conduct and fear of retaliation, many female prisoners are reluctant to discuss these allegations.

56. In conjunction with the conduct described above, female inmates are routinely subjected to vulgar sexual remarks and sexual slurs and epithets by Orleans Parish Prison officers. Prisoners who object to such indignities are charged with verbal disrespect, and disciplined under the guise of maintenance of institutional respect and decorum.

57. Correctional officers often fraternize with specific inmates, unprofessionally establishing personal relationships and creating an atmosphere of favoritism.

58. Defendants have failed to train, discipline or control properly the sexually abusive and degrading actions of correctional officers.

59. The practices and procedures outlined in ¶¶ 55 through 58, supra, subject plaintiffs to confinement under harmful conditions that are detrimental to their health and well-being.

### Privacy

60. In all facilities that house female prisoners, Orleans Parish Prison officers routinely fail to inform female prisoners that there is a man in the facility. Consequently male guards and other personnel often observe female prisoners while they are nude or partially nude. Similarly, due to the lack of any barrier or privacy curtain between the shower area and the remainder of the dorm, these men sometimes observe the shower areas. These "observations" are unrelated to the need to establish a "count" of inmates or any other security need.

61. In SWS, there are closed-circuit cameras in the women's shower areas. The camera monitors are located in the correctional officer's central module, at the front of SWS. Consequently, any man entering this facility can observe the women in the showers. The use of this monitoring equipment violates the inmates' rights to privacy.

62. Defendants inconsistently apply their strip search policy to female prisoners, inappropriately using the strip search as a form of harassment. Additionally, strip searches are routinely conducted in public places, often in front of an entire dorm, in violation of prisoners' privacy.

63. In SWS and Rendon Street, bathroom facilities consist of approximately five toilets positioned three feet apart, at one end of the dormitory. There are no barriers between the toilets, in violation of prisoners' rights to privacy.

64. The practices and procedures outlined in ¶¶ 60 through 63, supra, subject plaintiffs to confinement under harmful conditions that are detrimental to their health and well-being.

Legal Access

65. Prisoners are denied adequate opportunities to have contact with their attorney. The nearly one hundred prisoners in each of the dormitories of SWS and Rendon have access to only three telephones and the hours of access to these telephones are unduly limited. The telephones are frequently turned off for days at a time for disciplinary reasons, preventing prisoners from contacting their attorneys.

66. The defendants routinely open inmates' legal mail outside of the presence of the inmates.

67. The defendants do not provide adequate facilities for legal visits. The same room is used for legal visits as for non-legal visits. As a result, legal visits are denied during regular visiting hours.

68. The visiting room at SWS is divided by a solid glass wall. Approximately twelve round stools are positioned on each side of the glass, one foot apart. There are no partitions between the stools, and desks for note-taking. Telephone receivers, many of which are broken, must be used to communicate, making it impossible for two attorneys to speak with an inmate at the same time. Generally, when several legal visits are being conducted at once, maintaining attorney-client confidentiality is almost impossible. Due to the barrier, it is not possible to

pass legal documents or for a lawyer and client to review legal documents simultaneously. The visiting room at Templeman III is similar to that at SWS, except that there are no telephones. Instead both parties must shout through a glass partition. There are similar problems with visitation at the House of Detention and Templeman I and II. Rendon Street has no visitation room.

69. Defendants often require female plaintiffs to visit with their attorneys at facilities other than those in which they are housed, necessitating long waits in cramped holding cells, delay in receipt of medication or food, and strip searches subsequent to transportation outside of the facility. These practices discourage inmates from exercising their legal rights.

70. Prisoners in Orleans Parish Prison are routinely denied contact attorney visits, unnecessarily infringing on their rights to access to the courts and counsel and the confidentiality of legal materials. These prisoners are unable to review documents simultaneously with their attorneys and documents must be given to officers to pass between attorney and prisoner. The officers are out of view of the attorney and prisoner when delivering documents from one to the other. There are delays in the passage of documents when an officer is unavailable.

71. The Sheriff and his delegees have consistently obstructed access to female plaintiffs by the ACLU National Prison Project (NPP) and other legal service organizations. This obstruction has taken the form of outright denial of access under certain circumstances, unnecessary delays in obtaining access,



use of intimidation tactics, and transfer of inmates who request visits with NPP lawyers or who make allegations of abuse. For example, Sheriff's employees questioned one prisoner, immediately following a legal visit with a NPP representative, about the substance of their discussion.

72. Prisoners, including those who are indigent, are not provided with pens, paper, stamps or notary services for their legal needs. Prisoners who can afford them may purchase these items from the Orleans Parish Prison store.

73. Because of the practices and procedures outlined in ¶¶ 65 through 72, supra, plaintiffs are denied meaningful access to the courts and effective assistance of counsel.

#### Visitation

74. After giving birth, female prisoners are immediately separated from their newborn babies, and are thereafter denied the opportunity to breast-feed during regular visiting hours. This practice subjects plaintiffs to confinement under harmful conditions that are detrimental to their health and well-being, and unreasonably interferes with the parent-child relationship.

75. Visitation is limited to a total of three visitors. Children must be accompanied by an adult. Therefore, prisoners with three or more children must completely forego visitation with one or more of their children. Visits that do occur are limited to fifteen minutes, in cramped and crowded visitation rooms, divided by a glass partition.

76. The practices and procedures outlined in ¶¶ 74 through 75, supra, subject plaintiffs to confinement under harmful conditions that are detrimental to their health and well-being, unreasonably interfere with the parent-child relationship, and unreasonably cut prisoner ties to the community.

VII. DEFENDANTS' KNOWLEDGE OF THE DEFICIENCIES

77. Numerous prisoners have attempted, to no avail, to file individual grievances complaining to prison staff about inadequate and inappropriate treatment, conditions and care. Through plaintiffs complaints and advocacy efforts on behalf of individual plaintiffs, defendants have been informed on numerous occasions regarding specific instances of inappropriate treatment and care. Moreover, all defendants have been on notice of these allegations since the filing of the Lambert complaint in July 1994.

78. As the lawful custodian of the Orleans Parish Prison, Sheriff Foti has knowledge of the complained of conditions and has failed to take adequate measures to correct them.

79. As Mayor of the City of New Orleans, Mayor Morial has the responsibility for financing and maintaining the Orleans Parish Prison. He has knowledge of the complained of conditions and has failed to take adequate measures to correct them.

80. As Governor of the State of Louisiana, Governor Edwards has the responsibility through his delegees for providing custodial care for state-sentenced prisoners and state forensic patients confined at Orleans Parish Prison. He has knowledge of

the complained of conditions and has failed to take adequate measures to correct them.

81. As Secretary of the Louisiana Department of Corrections, Secretary Stalder has the responsibility for providing the custodial care for state-sentenced prisoners. He has knowledge of the complained of conditions and has failed to take adequate measures to correct them.

82. As Secretary of the Louisiana Department of Health and Hospitals, Secretary Pilley has the responsibility for providing the custodial care for state forensic patients at Orleans Parish Prison. He has knowledge of the complained of conditions and has not taken adequate measures to correct them.

#### VIII. CLAIMS FOR RELIEF

##### A. Medical, Psychiatric, Physical Environment, and Conditions and Practices

83. Plaintiffs reallege and incorporate by reference paragraphs 16 through 75.

84. Defendants fail to provide plaintiffs with the basic necessities of life, including adequate food, shelter, sanitation, medical and mental health care, and personal safety. The conditions in these facilities are incompatible with contemporary standards of decency, cause unnecessary and wanton infliction of pain and are not reasonably related to any legitimate governmental objectives. As a result of the defendants' deliberate indifference, sentenced prisoners are thereby subjected to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States

Constitution, and pretrial detainees are subjected to impermissibly punitive conditions in violation of the Due Process Clause of the Fourteenth Amendment.

B. Sexual Misconduct and Degrading Treatment

85. As alleged in ¶¶ 55 through 58, the defendants have subjected plaintiffs to a pattern and practice of sexual misconduct including sexual assault, extraction of sexual favors, and derisive sexual slurs and epithets by Orleans Parish Prison officers, in violation of the Eighth and Fourteenth Amendments. Female plaintiffs have been targeted for harassment because of their sex in violation of the Equal Protection clause of the Fourteenth Amendment.

C. Privacy

86. As alleged in ¶¶ 60 through 63, the defendants have violated plaintiffs right to privacy under the First, Fourth, and Fourteenth Amendments. In addition, defendants' violation of plaintiffs' privacy violates the Eighth Amendment of the United States Constitution.

D. Legal Access Claim

87. As alleged in ¶¶ 65 through 72, the defendants' interference with plaintiffs' legal access, denial of legal visits and denial of contact attorney visits deprive plaintiffs of their right to meaningful access to the courts as guaranteed by the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

E. Visitation

88. As alleged in ¶¶ 74 through 75, the defendants have violated plaintiffs right to privacy, family autonomy, and freedom from cruel and unusual punishment under the First, Fourth, Fifth, Eighth and Fourteenth Amendments.

VIII. NO ADEQUATE REMEDY AT LAW

89. As a proximate result of the defendants' policies, practices, procedures, acts and omissions, plaintiffs have suffered, do suffer, and will continue to suffer immediate and irreparable injury, including physical, psychological and emotional injury. Plaintiffs' physical and psychological health and well-being will continue to deteriorate during the course of their confinement under the conditions described in this complaint. Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiffs will continue to be irreparably injured by the policies, practices, and procedures, acts and omissions of the defendants unless this Court grants the injunctive relief that plaintiffs seek.

IX. PRAYER FOR RELIEF

1. WHEREFORE, plaintiffs and the class they represent pray that this Court grant the following relief:

A. Issue a declaratory judgment pursuant to 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure, stating that the defendants' policies, practices, acts and omissions described in this Complaint violate plaintiffs' rights, guaranteed to them by the First, Fourth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution;

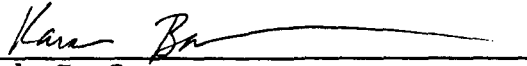
B. Permanently enjoin defendants, their officers, agents, employees and successors in office, as well as those acting in concert and participating with them, from engaging in the unlawful practices described in this Complaint;


C. Retain jurisdiction of this matter until this Court's orders have been carried out;

D. Award plaintiffs their reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and

E. Grant such other relief as may be just and equitable.

Respectfully submitted,

  
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