

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

INMATES OF THE NORTHUMBERLAND	:	
COUNTY PRISON, through Scott	:	
Collins, Roman Brady, Jeremy Elsesser	:	
Conrad Corely, Michael Wetzel,	:	
Hasson Lindsey, Thomas Anderson,	:	COMPLAINT-Class Action
Joseph Bowers, Sharon Reichner	:	
Megan Holohan, Kelcie Williams and	:	Civil Action No.:
Sonya Wyland,	:	
<i>Plaintiffs,</i>	:	Filed via ECF
	:	
v.	:	
	:	
RALPH M. REISH, in his official capacity	:	
as Warden of Northumberland	:	
County Prison, FRANK SAWICKI, VINNY	:	
CLAUSI, KURT MASSER, ANTHONY ROSINI,	:	
CHARLES ERDMAN, ROBERT SACAVAGE,	:	
CHAD REINER, in their official capacities as:	:	
members of the Northumberland County	:	
County Prison Board, and	:	
NORTHUMBERLAND COUNTY,	:	
PENNSYLVANIA,	:	
<i>Defendants.</i>	:	

COMPLAINT

I. Introduction

Inmates of the Northumberland County Prison bring this Section 1983 class action to challenge conditions and practices that are undermining their constitutional rights. Grounding their claims on the First, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, they seek declaratory and injunctive relief to remedy systemic defects in the Prison's delivery of medical, mental health and dental care; life-threatening fire hazards in the institution's housing units; chronic environmental problems in the living and kitchen areas; the hostile effects of profound overcrowding in the Women's Dormitory; the use of protracted bunk-restriction as a form of discipline in the Women's Dormitory and policies associated with that abusive practice; medieval-like conditions and practices in the Prison's basement cells; callous practices associated with the use of four-point physical restraints; the unequal, discriminatory treatment of female prisoners in the contexts of outdoor exercise, work release, and other institutional programs; the policy-based failure to provide incoming inmates with essential clothing supplies; and the lack of a confidential area for inmate consultations with their attorneys.

II. Jurisdiction

1. The Court's authority to hear this case is rooted in 28 U.S.C. Section 1343, statute conferring federal district court jurisdiction over lawsuits alleging abridgments of federal constitutional rights. This litigation asserts, among other claims, violations of the Due Process and Equal protection Clauses of the Fourteenth Amendment as well as abridgments of the Eighth Amendment's prohibition against cruel and unusual punishment. As such, it falls squarely within the Court's power to address.

III. Parties

2. Plaintiff Scott Collins has been an NCP inmate since May of 2007. He is confined in a segregation cell in lock-up. During his incarceration, Mr. Collins has been denied treatment for his serious medical, dental, and mental health needs; subjected to the defective conditions, practices and policies catalogued in this complaint that systemically erode the delivery of medical, dental, and mental health treatment at the facility; subjected to the unreasonable physical restraint practices challenged in this lawsuit; subjected to the irrational segregation recreation protocol challenged in this litigation; subjected to the abusive conditions and practices in the Prison's basement cells related in this pleading; housed in an environment that has serious insect infestations, poor ventilation, poor sanitation, severe fire safety hazards, and other defects; denied essential clothing when admitted to the institution; and not afforded a confidential area in which to confer with his attorneys.

3. Plaintiff Roman Brady has been an NCP inmate since February of 2007. He is housed in a Behind the Wire cell. During his incarceration, Mr. Brady has been denied access to treatment for a serious dental condition; subjected to the unreasonable segregation recreation protocol challenged in this litigation; subjected to the abusive conditions and practices in the Prison's basement cells catalogued below; housed in an environment that has serious insect infestations, poor ventilation, poor sanitation, and severe fire safety hazards; not provided essential clothing when admitted to the institution; and not afforded a confidential area in which to confer with his attorneys.

4. Plaintiff Jeremy Elsesser has been an NCP inmate since October of 2007. He is confined in a Behind the Wire cell. While imprisoned in the NCP, Mr. Elsesser has been subjected to the unreasonable segregation recreation protocol challenged in this case as well as the squalid environmental and dangerous fire safety conditions described below.

5. Plaintiff Conrad Corley has been an NCP inmate since April of 2007. He is housed in a Behind the Wire cell. During his confinement, Mr. Corley has been denied access to medical and mental health treatment for his serious medical and mental health needs; subjected to the defective conditions, practices and policies associated with the provision of medical and mental health care at the facility; subjected to the unreasonable segregation recreation protocol challenged in this litigation; subjected to the abusive conditions and practices in the Prison's basement cells outlined below; housed in an environment that is riddled with serious insect infestations, poor ventilation, squalid sanitation, and severe fire safety hazards; not provided essential clothing when admitted to the institution; and not afforded a confidential area in which to confer with his attorneys.

6. Plaintiff Michael Wetzel has been an NCP inmate since November of 2007. He is housed in a general population cell block. During his confinement, Mr. Wetzel has been housed in an environment that, in addition to other substantial problems, has serious insect infestations, poor ventilation, poor sanitation and severe fire safety hazards. Like the other representative plaintiffs and the inmates he seeks to represent, he was not provided essential clothing when admitted to the institution.

7. Plaintiff Hasson Lindsey is housed in a Behind the Wire Cell. While imprisoned at NCP, Mr. Lindsey has been subjected to

unreasonable segregation recreation protocol challenged in this litigation; housed in an environment that has serious insect infestations, poor ventilation, poor sanitation, and severe fire safety hazards; not provided essential clothing when admitted to the institution; and not afforded a confidential area in which to confer with his attorney.

8. Plaintiff Thomas Anderson has been an inmate of the Northumberland County Prison. He was confined in a segregation unit known as "Behind the Wire." During his incarceration, Mr. Anderson had been housed in a cell block that (among other things) was poorly ventilated, unsanitary, infested with insects, and riddled with life-threatening fire hazards; denied access to treatment for his serious medical and mental health needs; housed in a facility plagued by systemic medical/mental health understaffing and an array of practices, policies and conditions that corrupt the delivery of medical and mental health treatment; subjected to the unreasonable and abusive four-point physical restraint practices challenged in this case; governed by the irrational recreation protocol (for segregated inmates) challenged in this litigation; subjected to the abusive conditions and practices in the Prison's basement cells described in this pleading; denied (like the other inmates he seeks to represent) essential clothing when admitted to Prison; and not afforded a confidential meeting area in which to confer with his attorneys.

9. Plaintiff Joseph Bowers has been an NCP inmate since August of 2006. He is confined in a Behind the Wire Cell. During his incarceration, Mr. Bowers has been denied treatment for his serious mental health needs; has resided in an environment that is infested with insects, poorly ventilated, unsanitary, and unsafe in the event of a serious fire; has been subjected to the unreasonable recreation protocol (for segregated inmates) described in this complaint; and

has not been afforded a private area in which to confer with his attorneys.

10. Plaintiff Sharon Reichner has been an NCP inmate since October of 2007 and was previously incarcerated in the Prison during the summer of 2007. She is housed in the Women's Dormitory. While confined in the Prison in the summer of 2007, Ms. Reichner was denied access to necessary medical care for her serious medical needs. She now inhabits a badly overcrowded dormitory that (among other things) is unsanitary, poorly ventilated, infested with insects, and plagued by life-threatening fire hazards. She is subject to the abusive bunk-restriction practices challenged in this action; governed by policies that discriminate against female inmates; was not provided essential clothing when admitted to the institution; and is imprisoned in a facility that fails to afford prisoners a private, confidential area in which to confer with their attorneys.

11. Plaintiff Megan Holohan has been an NCP inmate since November of 2007. She is confined in the Women's Dormitory. While incarcerated, Ms. Holohan has been subjected to the discriminatory policies, practices and conditions described in this complaint related to outdoor recreation, job opportunities, and other matters affecting the Prison's female inmates; denied treatment for her serious mental health, medical, and dental needs; housed in a living area that poses serious risks to her safety in the event of a fire affecting the dormitory; housed in a seriously overcrowded, unsanitary, insect infested, poorly ventilated unit with inadequate toilets, sinks and showers to accommodate the number of people who are housed there; and subject to the unreasonable and abusive bunk-restriction policies and practices challenged in this action.

12. Plaintiff Kelcie Williams has been an NCP inmate since May of 2007. She is housed in the Women's Dormitory. While incarcerated,

Ms. Williams was (until recently) restricted to her bunk for more than six consecutive months pursuant to the bunk-restriction policies challenged in this action (causing her legs and ankles to swell and exacerbating her depression); confined in a severely overcrowded, unsanitary and poorly ventilated housing unit in which she and her fellow prisoners are exposed to life-threatening fire hazards; imprisoned in a facility that has profound, systemic deficiencies in medical and mental health staffing, facilities and practices; subjected to the policies, practices and conditions described in this pleading that discriminate against the Prison's female prisoners; denied adequate clothing when admitted to the Prison; and not afforded a confidential area in which to meet with her attorneys.

13. Plaintiff Sonya Wyland has been an NCP inmate since the fall of 2007. She is housed in the Women's Dormitory. During her confinement, Ms. Wyland has been incarcerated in a facility that has systemic deficiencies in the delivery of medical and mental health services; has not had her serious medical and mental health needs addressed; and is housed in a badly overcrowded unit that (among other things) is unsanitary, infested with insects, has too few toilets, sinks and showers to accommodate the number of women housed there, and poses serious fire safety risks to its occupants. She has been subjected to the discriminatory policies, practices and conditions described in this complaint; was not provided necessary underclothing when admitted to the institution; and is incarcerated in an institution that lacks a confidential interview area in which she and her fellow prisoners can confer with their attorneys.

14. Defendant Ralph M. Reish is the Warden of the Northumberland County Prison. As the on-site day-to-day, administrator of the Prison, Warden Reish has the authority as well as the obligation to propose, establish, and implement policies and practices to operate the facility in accordance with the dictates of the federal Constitution.

However, as described below, his policies and practices systematically trample the civil rights of the men and women who are confined in the institution.

15. Frank Sawicki (County Commissioner), Kurt Masser (Commissioner), Anthony Rosini (District Attorney), Charles Erdman (Controller), Robert Sacavage (Common Pleas Judge), Chad Reiner (Sheriff), and Vinni Clausi (County Commissioner) are the members of the Northumberland County Prison Board, a body created by state law to oversee the Northumberland County Prison. As members of the Board, they are responsible for monitoring conditions and practices in the institution as well as establishing policies for its operation. As described below, these officials have been seriously derelict in their oversight and policymaking responsibilities and as a result, are helping to administer an institution whose conditions and practices repetitively violate the civil rights of the inmates who are confined there.

16. Northumberland County, Pennsylvania is a governmental entity with authority over the operations of Northumberland County Prison. The County has the authority as well as the obligation to fund the facility in a manner that protects the constitutional rights of the inmates who are confined in it and to finance whatever physical renovations, programs and activities are necessary to remedy the unconstitutional conditions and practices that now blight the institution.

17. The defendants, who are sued in their official capacities, have acted under color of state law within the meaning of Section 1983 when engaging in the acts and omissions catalogued in this complaint.

IV. Factual Allegations

Medical

18. The Northumberland County Prison (a 130 year old jail located in Sunbury, Pennsylvania) houses approximately two hundred pretrial and sentenced inmates of both genders on any given day.

19. Although many of the men and women confined in the institution have serious medical needs, the Prison's medical program is systemically incapable of adequately addressing those needs.

20. On information and belief, a physician under contract with Northumberland County, appears at the Prison only once every two or three weeks, a few hours on each occasion, to see inmates. The remainder of the time, there is no physician, physician's assistant, or other licensed medical professional of equivalent status on-site to address the serious medical needs of NCP prisoners.

21. The amount of time the contract-physician spends at the Prison is grossly insufficient to address the medical needs of the inmate population.

22. The lack of adequate on-site physician coverage at NCP results in long delays before inmates who require the services of a doctor are seen and, in many instances, causes inmates not to be seen at all.

23. Other than the contract-physician (and a contract-psychiatrist who occasionally comes to the Prison) the only medically-trained person employed in the institution is a licensed practical nurse who is on-site only eight hours a day, five days a week.

24. Under this inadequate staffing pattern, there is no on-site nursing coverage at the Prison sixteen hours a day during the regular work-week and twenty-four hours a day on week-ends.

25. The vacuum created by the absence of on-site coverage by nurses or other auxiliary medical personnel at the Prison more than seventy-percent of the time results in long delays before NCP inmates are seen by a nurse (if they are seen at all).

26. Inadequate on-site nursing coverage at the Prison has the negative effect of delegating initial triage responsibilities for inmate complaints to medically untrained and unskilled guards most of the work-day.

27. The policy decision to limit on-site nursing coverage to eight hours a day, five days a week has triggered the dangerous practice of having guards deliver prescribed medications in unsealed cups to inmates; a procedure that can and has resulted in NCP inmates mistakenly receiving the wrong medications.

28. The employment of an LPN as the sole nursing figure at the institution (as opposed to an RN or nurse practitioner) contributes to the inadequacy of on-site nursing coverage at the Prison.

29. In addition to systemic deficiencies in medical staffing, there are structural factors that erode the Prison's capacity to address the serious medical needs of inmates: the lack of an infirmary or other medically supervised area in the prison in which to house inmates who are too ill to remain in their cells but do not require hospitalization and the absence of an isolation cell or cells in which to hold prisoners who either have or are suspected of having serious, infectious, communicable airborne diseases. This places the named plaintiffs and the inmates they propose to represent at risk of contamination.

30. On information and belief, an inmate with infectious tuberculosis was recently held in an ordinary cell in the bowels of a

male cell block before being moved from the Prison to an outside medical facility, exposing other prisoners to the disease.

31. As a matter of routine practice, NCP inmates must submit requests for medical care in written, unsealed request slips in which they are required to describe the nature of their medical problems. This process enables guards (who deliver medical requests to the Prison nurse) to read the messages, thus eroding the ability of prisoners to communicate confidentially with medical personnel about matters that are supposed to be privileged. The lack of a confidential process for inmates to submit requests for medical care is at cross-purposes with the privacy that such communications are supposed to be afforded.

Mental Health

32. Numerous inmates confined in the Northumberland County Prison suffer from serious mental health disorders. Despite that reality, the Prison's mental health program is systemically incapable of addressing their needs.

33. On information and belief, a psychiatrist working under a contract with the County visits the Prison only a few hours a week.

34. Due to the negligible amount of time the contract psychiatrist spends at the Prison, there are often long delays before inmates in need of psychiatric care are seen by the psychiatrist (if they are seen at all). It is common for inmates who require psychiatric care not to be seen by the psychiatrist for several weeks or longer and (in a significant number of cases) never to be seen.

35. On information and belief, there is no psychologist, psychiatric social worker, psychiatric nurse, or other mental health professional

at the prison (with the necessary educational background, qualifications and credentials) to evaluate and treat the serious mental health needs of the inmates.

36. As a matter of routine practice, NCP inmates are required to submit unsealed request slips for mental health care and to describe in the slips why they want to be seen. This practice enables guards who deliver the requests to read them and, thus, erodes the confidentiality that such communications are supposed to be afforded.

Fire Safety

37. The great majority of the Prison's male inmates are confined in two large cell blocks known as the Left and Right Wings. Each of these two-tiered housing units contains thirty-nine cells, most of which are occupied by two prisoners per cell. Under this configuration, there are typically eighty or more inmates in the respective housing units on any given day.

38. The cell doors in the Left and Right Wings are padlocked when inmates are confined to their quarters throughout the night and during various times of the day. Because the doors are padlocked (rather than controlled electronically or by some other mechanical means), the cells cannot be unlocked and opened as a group. Instead, each of the seventy-eight doors must be unlocked individually with a master key.

39. The need to individually unlock the cell doors is a time-consuming process that significantly increases the possibility that inmates in the male housing units will either be injured or asphyxiated by a fire affecting those areas.

40. If there is a need to evacuate inmates housed in the Left and Right Wings to prescribed outside staging areas, the fire escape

doors leading to those areas have to be unlocked from the outside due to the design of the doors. The head to unlock the fire escape doors from the outside is a time-consuming process that significantly increases the prospect of inmates being injured or dying as the result of a fire affecting one or both of the cellblocks.

41. Compounding the problem of exiting the male cell blocks through fire escape doors are heating pipes (approximately a foot and a half high) that must be stepped over before reaching the doors. The heating pipes are in front of a set of doors that lead to the fire escape doors. These impediments create the potential that inmates will stumble or fall while attempting to evacuate the housing units, slow the process of escaping a fire in the male housing units, and increase the likelihood of injuries or fatalities from a fire affecting the Left and Right Wings.

42. On information and belief, there are no fire sprinklers in the Left and Right Wing cell blocks. The absence of sprinklers substantially increases the possibility of a catastrophic fire.

43. On information and belief, there are no fire extinguishers in or near these housing units. The absence of fire extinguishers in or in the vicinity of the Left and Right Wing cellblocks substantially increases the possibility of a catastrophic fire.

44. Many of the bunk mattresses in the Left and Right Wings are cracked or otherwise breached. This exposes the interior ticking of the mattresses, effectively rendering them flammable. This factor heightens the risks to the cellblocks' occupants in the event of a fire.

45. As a matter of custom, practice, or policy, fire drills for the left and right wings are not conducted at the Prison. The failure to conduct periodic drills is likely to slow the process of evacuating these units in the event of an actual fire.

46. The Prison's female inmates are housed in an extremely congested open-bay dormitory located in the institution's basement.

47. Due to chronic overcrowding in the dormitory, the inmates sleep on a series of bunk beds separated from each other by no more than three feet of space.

48. On information and belief, there are no fire sprinklers in the female dormitory.

49. On information and belief, there are no fire extinguishers in or adjacent to the unit.

50. The absence of fire sprinklers and fire extinguishers in or near the Women's Dormitory substantially increases the possibility of a catastrophic fire in that area.

51. There are two ways of evacuating the Women's Dormitory in the event of a fire: through a door leading to a stairway to the Prison's first floor and through a door leading to an outside recreation yard.

52. If (for reasons associated with a fire) the stairway cannot be used to evacuate inmates from the dormitory, the door to the outside yard would have to be used. As a matter of design, the door leading to the yard must be unlocked from the outside. This is a time-consuming process that compounds the risk of a catastrophic fire in the dormitory.

53. Due to profound over-crowding in the Women's Unit last year (a condition that has been chronic and is likely to exist or recur during the pendency of this litigation), several cot beds, at various times, have been placed in front of the yard-door to accommodate additional inmates. The presence of these beds slows the rate at

which the dormitory can be evacuated through that exit and increases the possibility of a catastrophic fire in the dormitory.

54. Many of the mattresses in the Women's Unit are breached, effectively rendering them flammable.

55. As a matter of custom, practice or policy, fire drills are not conducted for female prisoners, a factor that increases the likelihood of death or injuries in the event of a fire.

56. The factors catalogued above, separately as well as in combination, place women inmates incarcerated in the Northumberland County Prison at significant risk of death or injury in the event of a fire affecting their housing unit.

Environmental Conditions

57. There are serious cockroach and other insect infestations in the male and female housing units, in the Prison's basement cells (which are used for segregation and physical restraint purposes), and in the institution's kitchen.

58. Ventilation in the Prison's respective housing units is poor to non-existent. The lack of adequate air-flow creates sweltering conditions in these areas during warm weather months.

59. During the winter, some areas the male cell blocks are extremely cold while others are overheated.

60. Many of the bed mattresses provided to inmates in both the male housing units are filthy and breached when distributed to them. On information and belief, mattresses are not routinely cleaned between uses.

61. Showers in the male cellblocks often run-out of hot/warm water after the early morning hours and are typically cold for much of the day.

62. The cell-sinks in the male housing units have only cold running water. In light of the prevalence of MRSA and other serious communicable diseases in prison facilities and the need to wash hands with hot water to prevent the spread of MRSA and other such conditions, the lack of hot water in the cells places male NCP inmates at increased risk of contracting such diseases.

63. Due to dampness and other factors, mold thrives on the walls of the Women's Dormitory.

64. As noted above, due to extreme overcrowding in the female unit, beds there are separated by only two to three feet and occupy most of what would otherwise be living space. The distances between the beds and overall lack of living space in the dormitory (where the women are confined approximately 23 hours a day) fall far below the national standards established by the American Correctional Association and the American Public Health Association for prisons.

65. The proximity of the beds to each other and the lack of a day room or an area inside the Women's Dormitory (where inmates could go to avoid the cramped living quarters) create significant public health risks for these prisoners.

66. Housing prisoners in such a congested environment engenders enormous stress and exacerbates clinical depressions that many of the women already suffered from when admitted to the Prison.

67. There are only two toilets, two sinks, and three showers to accommodate the two to nearly three dozen inmates who are housed in the Women's Unit on any given day. This ratio falls far

below the American Correctional Association and American Public Health Association standards for prison facilities and is woefully insufficient to address the needs of the female prisoners confined in the Northumberland County Prison.

68. It is commonplace for showers in the Women's Unit (after early morning) to have only cold running-water for much of the day.

69. It has been routine for many of the mattresses in the Women's Unit to be cracked and otherwise breached. This presents not only fire-hazard concerns; it also provides places in which lice and other insects can hide and congregate.

70. A serious lice outbreak occurred in the Women's Unit during the winter of 2007, affecting numerous prisoners.

The Basement Cell Conditions and Practices

71. There are two segregation cells located in the Prison's basement which are utilized (for periods ranging from a day to several consecutive days) to administratively separate inmates who have allegedly acted-out from the main inmate population.

72. One of the basement cells, (the "Dry Cell") has no toilet or sink, and only a single metal bed frame (without a mattress) for sleeping purposes.

73. The other cell, (the "Wet Cell") is equipped with a toilet, a sink and a concrete slab (without a mattress) for sleeping purposes.

74. The number of inmates confined in the respective basement cells at any one time ranges from one to several per cell.

75. It is typical for inmates to be shackled with leg irons and/or handcuffs when locked inside the basement cells. This is a cruel,

punitive practice that bears no reasonable relationship to institutional security or to any other legitimate institutional objective.

76. Inmates are stripped to their underpants when housed in the basement cells. This degrading practice bears no reasonable relationship to institutional security or any other legitimate institutional objective.

77. Although inmates confined in the basement cells are occasionally given a mattress, it is commonplace for prison personnel not to furnish mattresses to them. As a result, inmates are often forced to sleep on the hard, unpadded metal bed frame, a concrete slab, or directly on the cement floor. This practice is gratuitously abusive and bears no reasonable relationship to security or any other legitimate institutional objective.

78. Lights in the Wet Cell are kept on the entire time an inmate is confined in the cell, making it difficult if not impossible for them to sleep.

79. The basement cells are chronically filthy, infested with vermin, poorly ventilated, unprotected by fire sprinklers and extinguishers, and pose heightened risks (in the event of a fire affecting the basement) to the inmates locked in these cells.

80. Inmates are often placed in the basement cells for reasons that bear no reasonable relationship to institutional security or any other legitimate institutional objective.

81. Even in instances when inmates are initially placed in the basement cells for a legitimate reason, it is a common practice for Prison officials to prolong the confinement well after justification for the placement has passed.

Four-point Restraint Practices

82. The basement's Dry Cell serves as a physical restraint room for inmates who are purportedly out of control (due to mental health or other factors) or who are perceived to be suicidal.

83. Within the framework of the Prison's physical restraint protocol, inmates are taken to the basement, placed on their backs by guards directly against the Dry Cell's metal bed frame; shackled by their wrists and ankles (with unpadded metal cuffs) to each of the bed frame's four corners, and remain immobilized in that condition until the Warden or the Warden's designee decrees that the inmate may be let out of the restraints.

84. On information and belief, inmates routinely remain in four-point restraints for a day or longer, sometimes for several consecutive days without respite (other than for toilet breaks) before being released.

85. On information and belief, inmates in four-point restraints are not permitted to wash or shower and are not given a change of clothing.

86. Being shackled in this manner for protracted periods of time is both physically and emotionally painful for the prisoners.

87. On information and belief, inmates who are confined in four-point restraints are not visited, monitored or evaluated by a mental health professional.

88. On information and belief, the length of time any particular inmate remains in four-point restraints is arbitrarily determined by the Warden or the Warden's designee and is usually prescribed for a fixed period of time unrelated to the inmate's behavior while in

restraints (i.e., whether the inmate has become sufficiently under self-control to allow the shackles to be removed).

89. On information and belief, placements of NCP inmates in four-point restraints are often ordered for punitive rather than for legitimate control or suicide prevention reasons and are often perpetuated for the same reasons.

90. In practice as well as policy, the Prison's physical restraint regime bears no reasonable relationship to any legitimate institutional objective.

Bunk-Restriction Practices

91. As a matter of custom, practice, or policy, female inmates who have allegedly violated institutional rules are confined for disciplinary reasons to their beds 22 hours a day for periods spanning several weeks to many months. Until recently, bunk-restriction persisted for 23 hours a day. The time away from the beds was extended by an hour after plaintiffs' counsel complained about the practice. Even a two hour respite is grossly insufficient in the context of long-term confinements to beds.

92. There are typically several women on bunk restriction at any given time.

93. Under the Prison's bunk-restriction regimen, inmates are confined to their beds virtually all of the time except when permitted by a guard to use a toilet and for a two hour respite when they are allowed to engage in "recreation" inside the dormitory with other prisoners who are on bunk-restriction and/ or wash themselves in the dormitory's bathroom.

94. Under the Prison's bunk-restriction protocol, inmates are prohibited from using the women's outdoor recreation yard, are denied visits with family members or friends, and are barred from making telephone calls—activities that prisoners who are not on bunk-restriction are permitted to engage in.

95. Subjecting inmates to bunk-restriction for weeks and even months at a time is physically painful, emotionally stressful, and, at bottom, profoundly cruel.

96. Confining inmates (in the name of discipline) for weeks and longer to their beds; keeping them locked inside the dormitory without fresh air; and precluding them from visiting with their loved-ones and speaking with them by telephone bears no reasonable relationship to any legitimate institutional objective.

The Disparate Treatment of Female Prisoners

97. As a matter of custom, practice or policy, the Prison's male inmates are allotted two hours of daily outdoor recreation, five days a week. In contrast, female prisoners are given only an hour a day of outdoor recreation.

98. As a matter of custom, practice or policy, male inmates are given access to a relatively large outdoor yard with exercise equipment and facilities. In contrast, female prisoners are relegated to an extremely small, inadequate parcel of ground (reminiscent of a dog-run) that has no equipment or facilities in it other than a swing. Despite the fact that the men's yard is not utilized much of the day, Prison officials deny female inmates access to it when the yard is not otherwise occupied.

99. The amount of space per inmate in the women's outdoor recreation yard is far below the dimensions prescribed by the

American Correctional Association and is woefully inadequate for meaningful recreation purposes.

100. As a matter of custom, practice or policy, outdoor recreation for the Prison's female inmates is cancelled much more frequently than outdoor recreation for male prisoners. The cancellation of outdoor exercise denies NCP women any opportunity for meaningful recreational activities since (unlike the male units) the female housing unit has no day room in which at least limited forms of indoor recreation are possible.

101. As a matter of custom, practice or policy, there is a work release program for the Prison's male inmates. In contrast, the institution does not operate a work release program to its female prisoners.

102. As a matter of custom, practice or policy, there are institutional jobs in the Prison's kitchen and elsewhere for male NCP inmates but none of any significance for female prisoners.

103. As a matter of custom, practice or policy, the ratios of toilets, sinks and showers for the Prison's male population is much better than the ratios for the female population.

104. The discriminatory customs, practices or policies enumerated above are unreasonable, arbitrary, and irrational--reflecting the second-class status to which the institution's female prisoners have been systematically relegated.

Disciplinary Confinement Recreation

105. As a matter of custom, practice or policy, inmates who are housed in segregation are never taken to the men's outdoor

recreation yard and are never unshackled during the one hour recreation period.

106. Requiring inmates to exercise while their limbs are shackled bears no reasonable relationship to security or any other legitimate institutional objective.

107. Precluding inmates who are confined in segregation from using the housing unit's outdoor recreation yard bears no reasonable relationship to any legitimate institutional objective.

108. As a matter of custom, practice or policy, if an inmate housed in segregation misbehaves over the course of the day, recreation for all inmates confined in that area is cancelled for that or the next day.

109. Effectively punishing all inmates for the behavior of one prisoner through the suspension of recreation for a day bears no reasonable relationship to any legitimate institutional objective.

Clothing

110. Inmates who lack the funds to purchase underclothing, have to continue to wear the same items of underwear they had when committed to the facility

111. Because the Prison's commissary is open only one day a week, even inmates who have sufficient money to purchase underclothing at the time of their admission or later secure money to purchase these items often have to wear the underwear they were admitted in for a week or longer.

112. The Prison's refusal to furnish underclothing to inmates at the time of their admission has caused numerous inmates to go without a change of underclothing for weeks and even months.

113. As a matter of custom, practice or policy, the Prison furnishes only one set of shirts and trousers to inmates admitted to the institution.

114. A second set of trousers (sweat pants) can be purchased from the Prison's commissary.

115. Inmates who lack the funds to purchase a second set of trousers must either go without trousers if they have their only pair of trousers cleaned in the institutional laundry or not have the trousers laundered.

116. The clothing practices described above bear no reasonable relationship to any legitimate institutional objective.

Attorney Visits

117. Inmates confined in the Northumberland County Prison are represented in their criminal proceedings either by public defenders or private defense counsel.

118. Inmates like the named plaintiffs in this action are represented by the Lewisburg Prison Project or consult with other civil attorneys in conjunction with civil rights and other non-criminal matters.

119. Despite the fact that meetings between Northumberland County Prison inmates and attorneys are commonplace, the Prison does not have a private meeting area for legal visits—where the confidentiality that is supposed to shroud such meetings can be guaranteed.

120. The primary meeting venue for legal visits at the Prison is adjacent to one of the institution's main hallways, at the vortex of another heavily traveled walkway, and next to vending machines and a room that are routinely used by guards and other members of the Prison staff.

121. The secondary meeting area—which is used when the primary venue is being used—is in a Prison library.

122. Third-parties can overhear discussions occurring in either of the existing places where legal visits occur at the Prison.

123. The absence of a private room or other confidential meeting area or areas for legal visits between NCP inmates and their attorneys erodes the privacy of such discussions and the reasonable expectation that the substance of what is said will not be overheard by third persons. At a minimum, the existing locations for legal visits have chilling effects on inmate-attorney conversations.

V. Legal Claims

124. Systemic deficiencies in medical staffing at the Northumberland County Prison, the negative consequences of chronic understaffing enumerated above, and the absence of infirmary beds and a medical isolation cell in the facility manifest deliberate indifference to the serious medical needs of inmates and violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution as well as the Eighth Amendment prohibition against the infliction of cruel and unusual punishment.

125. Systemic deficiencies in mental health staffing at the Prison and the negative consequences of chronic understaffing outlined above manifest deliberate indifference to the serious mental health needs of inmates and violate the Due Process Clause of the Fourteenth

Amendment as well as the Eighth Amendment prohibition against cruel and unusual punishment.

126. Chronic delays in dental treatment and lack of access to such care by NCP inmates manifest deliberate indifference to the serious dental needs of the prisoners and violate the Due Process Clause of the Fourteenth Amendment as well as the Eighth Amendment prohibition against cruel and unusual punishment.

127. The Prison's failure to protect the privacy of the inmates' written requests for medical and mental health treatment violates the First and Fourteenth Amendments to the Constitution.

128. The serious fire risks existing at the Prison manifests deliberate indifference to the safety of the inmates and offends the strictures of the Fourteenth and Eighth Amendments.

129. The environmental problems that plague the Prison violate both the Fourteenth and Eighth Amendments.

130. The conditions, practices, customs and policies related to the Prison's basement cells violate the Fourteenth and Eighth Amendments.

131. The manners in which Four-Point physical restraints are used at the Prison violate the Fourteenth and Eighth Amendments.

132. The Prison's bunk confinement practices violate the First, Fourteenth and Eighth Amendments.

133. The Prison's discriminatory, unequal treatment of female inmates in the matters described above abridges the Equal Protection Clause of the Fourteenth Amendment.

134. The customs, practices or policies governing the exercise/recreation of segregated inmates violate the Fourteenth and Eighth Amendments.

135. The Prison's failure to provide inmates with underclothing and a second set of outer clothing when they are admitted to the institution violates the Fourteenth as well as the Eighth Amendment to the Constitution.

136. The Prison's failure to provide inmates with a confidential meeting area in which to consult with attorneys violates the First, Sixth, and Fourteenth Amendments to the Constitution.

VI. Equity

137. The recurring violations of plaintiffs' constitutional rights will continue unless appropriate injunctive relief is granted. No adequate remedy at law exists to address the violations in question.

VII. Class Action Allegations

138. This lawsuit (for the following reasons) satisfies the prerequisites of Rule 23 for certification of a 23 (b)(2) class action:

- a. The class is so numerous that joinder of all members is impractical. There are now approximately two hundred inmates confined in the Northumberland County Prison and hundreds more will be admitted to the institution over the course of litigation. Given the substantial size of the membership at the present time and the infusion of future inmates into the class during the pendency of this action, this provision is met.

- b. There are questions of law and fact common to the class. Among the common questions are whether the factual allegations related to the delivery of medical and mental health services at the Prison are true and, if so, whether they establish deliberate indifference within the meaning of the Eighth and Fourteenth Amendments; whether dangerous fire hazards exist in the Prison's housing units and, if so, they reflect deliberate indifference on the part of Prison officials to the safety of NCP inmates; whether the squalid environmental conditions described in the complaint exist and, if so, whether they offend the strictures of the Eighth and Fourteenth Amendments; whether the conditions and practices alleged to exist in the basement cells are present and, if so, whether they are unconstitutional; and whether the meeting areas in which inmates confer with attorneys during legal visits protect the privacy rights of the prisoners.
- c. The claims of the representative plaintiffs are typical of the claims of the class. Although a few claims asserted by the named plaintiffs are unique to gender, the great majority (medical, mental health, fire safety, environmental, legal visits, and distribution of clothing) cut across gender lines and are typical of the claims of the class as a whole. All inmates of the Prison (except for the gender-specific matters) are subject to the same customs, practices, policies and conditions that have injured or threaten to injure the class representatives and those claims are based on identical legal theories.
- d. The representative plaintiffs will fairly and adequately protect the interests of the class. There are no fundamental conflicts of interest on their part. Their

attorneys are competent and have the necessary financial resources to litigate a case of this nature. Plaintiffs' lead counsel (Jere Krakoff) has litigated numerous Section 1983 conditions and practices cases involving prisons and jails in federal courts and has been lead or joint-counsel in numerous federal class actions in other substantive areas of the law throughout the United States. Cheryl Humes, co-counsel for the representative plaintiffs, is a staff attorney with the Lewisburg Prison Project and has a broad familiarity with the jurisprudence governing this lawsuit.

- e. The defendants have acted or refused to act on grounds that are generally applicable to the class, thereby making final injunctive relief appropriate with respect to the class as a whole. The challenged customs, practices, policies and conditions (with the exception of those that are gender specific) are either affecting or have the potential to affect every member of the class.

VIII. Remedy

The plaintiffs respectfully request the following relief:

- A. Certification of a Rule 23(b)(2) class consisting of all current and future inmates of the Northumberland County Prison.
- B. The entry of a declaratory judgment that the customs, policies, practices and conditions encompassed by this litigation violate the constitutional rights of the class members.

- C. The issuance of a preliminary and/or permanent injunction to eliminate the unconstitutional customs, policies, practices and conditions challenged in this lawsuit.
- D. An award of all reasonable costs, expenses and attorney's fees engendered by the prosecution of this case.
- E. The granting of other relief that may be appropriate and necessary under the facts of this case.

Respectfully submitted,

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