

APPENDIX

New Jersey Legislature

Committee on Law and Public Safety

Testimony of Prof. Brenda V. Smith
American University, Washington College of Law

February 22, 2018

Hearing on
Pervasive Problem of Sexual Abuse against Women in Prison & Best Practices for
Prevention and Reporting Within the Prison Setting.

Sexual Violence in Women's Correctional Facilities

Testimony of Prof. Brenda V. Smith

I. Introduction

Good afternoon, Chairman Greenstein and Vice-Chairman Diegnan. Thank you for inviting me here today and for the opportunity to speak with the members of the Committee on Law and Public Safety.

I am a Professor of Law at the American University Washington College of Law. I have a long investment in issues of treatment of individuals in custodial settings, dating back to my early years of running a program for women inmates imprisoned in the Minimum Security Prison of the District of Columbia Department of Corrections.¹ Because of my work with women in custody, I learned about sexual victimization in custodial settings and served as class counsel in *Women Prisoners v DC*² from 1993 to 2003. In November, 2003, I was appointed by then House Minority Leader, Nancy Pelosi to serve on the National Prison Rape Elimination Commission. I served in that capacity until August 2009, when the commission "sunsetted" after having issued comprehensive standards to address sexual abuse of individuals in custodial settings – prisons, jails, juvenile detention facilities, community corrections and immigration detention settings. The United States Department of Justice issued a final rule standards in August 2012 after several years of consultation with stakeholders and a robust public comment period.

In addition to those roles, I have also directed the Project on Addressing Prison Rape for the past 20 years. In that capacity, I have provided training and technical assistance to correctional agencies – adult and juvenile – on a variety of issues including: labor and employment issues; sexual abuse in custodial settings; culture change; treatment of LGBTQI persons in custody, and the specific needs of women and girls under authority of law.

Additionally, I have litigated and served as counsel and an expert in sexual abuse cases in correctional settings,³ and been involved as a scholar researching and writing on issues of sexuality and victimization in custody.⁴ My work investigating the legal construct of

¹ Brenda V. Smith, *AN END TO SILENCE: WOMEN PRISONERS' HANDBOOK ON IDENTIFYING AND ADDRESSING SEXUAL MISCONDUCT* (1998) *available at* http://www.wcl.american.edu/endsilence/documents/NWLC_Silence_Final.pdf.

² *Women Prisoners of the D.C. Dep't of Corr. v. Dist. of Columbia*, 93 F.3d 910, 929 (D.C. Cir. 1996).
³ Expert witness work includes xxx

⁴ Brenda V. Smith, *Rethinking Prison Sex: Self-Expression and Safety*, Symposium on Sexuality and the Law, 15 Colum. J. Gender & L. 185 (2006); *Uncomfortable Places, Close Spaces: Theorizing Female Correctional Officers' Sexual Interactions with Men and Boys in Custody*, 59 U.C.L.A. L. Rev. 1690 (2012).

employment in correctional setting is also longstanding dating back to my initial work on cross-sex supervision in custody.⁵

As many have said including Dostoevsky, Mandela and de Tocqueville, the mark of a civilization is in how we treat those we punish. I submit to you today, that while the United States has made progress with the promulgation of the final PREA standards, there is still much work to be done. I think the allegations of sexual abuse in the Edna Mahan Facility are proof of that.

Today, I would like to do two things – focus on what I know of past reports of abuse in the Edna Mahan Facility and focus on the PREA standards and the other best practices for preventing, reporting and punishing sexual abuse in custody.

II. Past History of Reported Complaints Involving the Edna Mahan Correctional Facility

This hearing was called in response to the pervasive problem of sexual violence in The Edna Mahan Correctional Facility. Most recently in fall 2017, a female prisoner in the Edna Mahan Correctional Facility alleged that she was sexually assaulted by Officers Ambroise and May. In her civil complaint, she claimed that Defendants Ambroise and/or Mays and/or other EMCF officers in the past five years assaulted at least sixteen other women.

Further, the female prisoner stated that at least five EMCF officers and/or employees were fired and/or criminally indicted over the past three years over claims of sexual abuse. Lastly, the prisoner claimed that for several years Edna Mahan falsely reported no cases of sexual abuse of inmates and/or under-reported cases of sexual abuse of inmates.

Unfortunately, this most recent event that is the genesis of this hearing is not an isolated incident. Edna Mahan has a long-standing history of sexual violence against female inmates. Over the last twenty years, female and male officers at the Edna Mahan Facility have been disciplined, fired, or criminally prosecuted for offenses including exchanging sexual favors for gifts or money. Detailed below are a number of the reported cases I located in anticipation of testifying today:

A. Current Case -- Owens v. Ambroise et al., No. 317-cv-07159-PGS-LHG (amended complaint filed Sept. 15, 2017).

Plaintiff filed suit pursuant to § 1983 for violation of her First, Fourth, Eighth, and Fourteenth Amendment rights. Plaintiff alleges that she was sexually assaulted by Officers Ambroise and May. Upon information and belief, at least sixteen (16) other women have been assaulted by Defendants Ambroise and/or Mays and/or other EMCF officers in the past five years. Further, upon information and belief, at least five (5) EMCF officers and/or employees were fired and/or criminally indicted over the past three

⁵

(3) years over claims of sexual abuse, including but not limited to Defendants Ambrose and Mays, as well as EMCF officers/employees Ahnwar Dixon, Thomas Seguine, and Joel Herscap. Notably, upon information and belief, for several years Edna Mahan falsely reported no cases of sexual abuse of inmates and/or under-reported cases of sexual abuse of inmates.

Cases

B. Matter of Colon, No. A-1726-15T4, 2017 WL 2991771 (N.J. Super. Ct. App. Div. July 14, 2017)

Petitioner appealed a final administrative action from the Civil Service Commission (Commission) and a denial of reconsideration of a Department of Correction (DOC) disciplinary action against petitioner removing him from his position for using excessive force against an inmate. Petitioner worked for the DOC as a senior corrections officer at Edna Mahan Correctional Facility for Women. This case stems from a January 26, 2015 incident between petitioner and an inmate, who is a special needs inmate receiving psychiatric care. The interaction was captured on the correctional facility's security cameras from two angles. The video shows the inmate approaching the control booth twice; the second time when she began to walk away, she stopped and said something over her shoulder. Next, the video shows petitioner walking towards the inmate, who turned and continued to walk back towards the housing unit. Petitioner closed the gap between himself and the inmate, standing inches from her. Petitioner pushed the inmate, causing the inmate to stumble, and eventually petitioner forcefully pushed her to the floor. The video shows petitioner punching the inmate while she was on the floor.

C. In re Coluccio, NO. A-0772-11T2, 2012 N.J. Super. Unpub. LEXIS 1883 (N.J. Aug. 6, 2012).

Plaintiff appealed a final determination of the Commissioner of Education removing him from his tenured position as a teacher with the New Jersey Department of Corrections. Coluccio was employed as a cosmetology teacher at the Department's Edna Mahan Correctional Facility for Women. On June 24, 2009, the Department filed a preliminary notice of disciplinary action, alleging that Coluccio had an improper relationship with an inmate at Edna Mahan, who was serving a six year sentence. Coluccio was charged with conduct unbecoming an employee, improper and unauthorized contact with an inmate, and sexual harassment or discrimination. The Court affirmed the Commissioner of Education's decision.

D. Heggenmiller v. Edna Mahan Corr. Inst., No. 04-1786, 128 Fed. Appx. 240 (3rd Cir. Apr. 11, 2005).

Plaintiffs alleged that a prison guard raped and sexually assaulted them between 1997 and 1999. The matter was allegedly investigated, and the guard was fired and brought up on charges. The inmates claimed that the administrators were deliberately indifferent to a serious risk of harm and failed to train the guards. While there was evidence of 10 different incidents of various sexual incidents between guards and inmates, none of the

prior incidents was shown to have involved the guard who assaulted both inmates. As to the past incidents, the administrators investigated, fired, and prosecuted at least five of the six guards involved in the incidents. Thus, there was no evidence that the administrators either looked the other way or attempted to intervene on behalf of any guard. The judgment of the district court was affirmed.

E. Raymond v. Edna Mahan Correctional Facility, NO. 2002-2678, 2005 WL 1190413 (N.J. Adm. May 4, 2005).

Appellant appealed his removal from respondent ("Edna Mahan") effective January 8, 2002 upon the determination that he had "improper or unauthorized contact with inmate-undue familiarity with inmates, parolees, their families, or friends," such contact being "conduct unbecoming an employee." The Court affirmed the respondent's removal of appellant from the position of Correction Captain.

F. State Of New Jersey V. Ralph W. Grier.

The guard, Lt. Ralph Grier, was found guilty of second-degree official misconduct in a criminal trial. That same jury acquitted him of three counts of sexual assault on inmates at Edna Mahan Correction Facility for Women, where Grier had worked for 20 years. According to court records. Judge Victor Ashrafi, sitting in Flemington, said that Grier took advantage of his position of authority in January 2002 and used it to develop a relationship with the victim, a female former inmate whose name was withheld. Grier gave the inmate cigarettes and candy to become friendly with her. Additionally, he sent her a \$30 money order and disguised it to come from a relative in exchange for allowing him to take nude photographs of her, according to court records As part of the sentencing, Grier was permanently barred from seeking a position in law enforcement or holding a public office.

III. The Prison Rape Elimination Act

In 1994, the Supreme Court ruled that prison officials' deliberate indifference to a substantial risk of serious harm to an inmate violates the cruel and unusual punishment clause of the Eighth Amendment. The court also ruled that. rape in prison is simply not "part of the penalty" for committing a crime⁶ Nine years later, Congress passed the Prison Rape Elimination Act, creating a zero-tolerance for sexual abuse in custody and the protect the 8th amendment rights of prisoners⁷.

⁶ *Farmer v. Brennan*, 511 US 825 (1994) (ruling that ruled that a prison official's "deliberate indifference" to a substantial risk of serious harm to an inmate violates the cruel and unusual punishment clause of the Eighth Amendment. Farmer, a transgender female, was placed with the general population at a male prison and was beaten and raped).

⁷ See generally, THE PRISON RAPE ELIMINATION ACT OF 2003, Pub. L. 108-79. 4 Sept. 2003. Stat 117.972. +

While we are here today to talk about sexual abuse in custody and how the Prison Rape Elimination Act Standards address that important issue, it goes without saying that PREA is about much more than abuse.

Sexual abuse of people in custody has been a problem since the inception of prisons. It has led to the creation of classification systems to detect vulnerability, and separate housing for men, women, and children.

Congress made several findings in passing that legislation that I think bear on today's proceedings:

- (1) most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults;
- (2) prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all;
- (3) inmates with mental illness are at increased risk of sexual victimization (America's jails and prisons house more mentally ill individuals than all of the Nation's psychiatric hospitals combined);
- (4) the high incidence of sexual assault in prisons involves likely violations of the U.S. Constitution.

In order to address these findings, Congress implemented the PREA Standards. I have detailed below the ones that I think this body should review carefully.

V. PREA Standards

PREA provided unprecedented funding to state and federal agencies to address sexual abuse in custody including:

1. funding for training and technical assistance to the National Institute of Corrections;⁸
2. funding for data collection by the Bureau of Justice Statistics;⁹
3. grants to state to address sexual violence in custody.¹⁰
4. funding to create the National Prison Rape Elimination Commission (NPREC), which Congress required to perform a comprehensive legal and factual analysis of

⁸ 42 U.S.C. § 15604.

⁹ 42 U.S.C. § 15603.

¹⁰ 42 U.S.C. § 15605.

the physical, mental, medical, social, penological, and economic consequences of prison rape.¹¹

After conducting hearings, expert panels and gathering data, the NPREC used that discovery to inform its development of draft standards for the prevention, detection and punishment of prison rape. After notice and consultation with the field through listening sessions, the Department of Justice (DOJ) issued final standards on August 20, 2012.

DOJ's standards require a variety of conditions related to staff training, reporting options, availability of mental and medical health resources, cross-gender supervision policies, and general oversight of compliance with PREA standards. Every agency is required to employ an agency-wide PREA coordinator who has sufficient time and resources to implement PREA and oversee agency efforts to comply with the standards. In addition, each facility within the agency is required to employ a PREA compliance manager who similarly has sufficient time and resources to effectively monitor and prevent sexual abuse in accordance with the PREA standards.¹²

These standards are the floor - they are minimum standards. States can and are encouraged to do more particularly if your state has set higher requirements.

In the PREA Standards, there are specific measures intended to prevent abuse perpetrated by prison officials including: (1) limits on cross-gender searches¹³; (2) improving hiring and promotion decisions¹⁴; (3) criminal and administrative agency investigations¹⁵; (4) disciplinary sanctions for staff¹⁶; and (5) training.

1) Cross-gender searches

28 CFR § 115.15:

(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to

¹¹ 42 U.S.C. § 15606(d).

¹² 28 C.F.R. § 115.11(b) – (c).

¹³ 115.15

¹⁴ 115.17

¹⁵ 115.71

¹⁶ 115.76

regularly available programming or other out-of-cell opportunities in order to comply with this provision.

(c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates.

(d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit. . . .

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

2) Hiring

28 CFR § 115.17: Hiring and promotion decisions

- (a) The agency shall not hire . . . anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who – (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution; (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
- (b) The agency shall consider any incidents of sexual harassment in determining whether to hire . . . anyone, or to enlist the services of any contractor, who may have contact with inmates.
- (c)-(f) The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring.

The second issue relates to the requirement for robust background checks. The PREA standards require background checks for any incidents involving sexual abuse and sexual harassment, and prohibit agencies from hiring staff with past convictions or substantiated incidents of sexual abuse in a facility or sexual activity in the community by force or

without consent.¹⁷ Agencies must conduct these checks on three occasions—at the point of hire, when being considered for a promotion and finally in a general five-year cycle. The PREA Standards enumerate the following offenses that bar hiring or promotion of staff:

- (1) engaging in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) has been civilly or administratively adjudicated for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.¹⁸

While good on its face, the background check standard assumes a reporting culture in correctional environments that often does not exist.¹⁹ The scandal in the Baltimore City Detention Center illustrates this problem. In April of 2013, twenty five people including thirteen corrections officers were indicted for a widespread smuggling scheme of drugs, cell phones and other contraband into the facility.²⁰ One inmate was discovered to have impregnated four officers.²¹ This scandal was so widespread that other staff members either knew or turned a blind eye to the misconduct.

3) Criminal and administrative agency investigations

28 CFR § 115.71: Criminal and administrative agency investigations (a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to §115.34. (c) Investigators shall gather and preserve direct and circumstantial evidence, including any available

¹⁷ 28 C.F.R. § 115.317.

¹⁸ *Id.*

¹⁹ The Code of Silence is very prevalent in the corrections setting and results in staff staying silent about abuse, refusal to cooperate with investigations and actively hiding evidence of misconduct. *See, e.g.,* Kathleen M. Dennehy & Kelly A. Nantel, *Improving Prison Safety: Breaking the Code of Silence*, 22 WASH. U. J.L. & POL'Y 175 (2006); Lois Henry, 'Code of Silence' Pervades Prison System, BAKERSFIELD CALIFORNIAN (July 27, 2011) available at <http://www.bakersfield.com/news/columnist/henry/x468147796/Code-of-silence-pervades-prison-system>.

²⁰ Ian Duncan et al., *Inside a Jail Run From Within*, THE BALTIMORE SUN (Apr. 28, 2013) available at <http://www.baltimoresun.com/news/maryland/bal-black-guerrilla-family-tavon-white-prison-corruption-20130425,0,7483161.html>

²¹ *Id.* ("Corrections department investigators discovered BGF documents outlining that new recruits are trained to target female officers with "low self-esteem, insecurities and certain physical attributes," according to the affidavit.").

physical and DNA evidence; any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. (d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for criminal prosecution.

28 C.F.R. § 115.76 : Disciplinary sanctions for staff

- a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
- b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

28 C.F.R. § 115.31: Employee Training

- a) The agency shall train all employees who may have contact with inmates on:
 - 1) Its zero-tolerance policy for sexual abuse and sexual harassment;
 - 2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - 3) Inmates' right to be free from sexual abuse and sexual harassment;
 - 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - 5) The dynamics of sexual abuse and sexual harassment in confinement;
 - 6) The common reactions of sexual abuse and sexual harassment victims;
 - 7) How to detect and respond to signs of threatened and actual sexual abuse;
 - 8) How to avoid inappropriate relationships with inmates;
 - 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
 - 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- b) Such training shall be tailored to the gender of the inmates at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.

- c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.
- d) The agency shall document, through employee signature or electronic verification, that employees understand the training they have received.

28 C.F.R. § 115.33: Inmate education

- a) During the intake process, inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
- b) Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

Finally, to combat the problems that sexual and familial relationships between inmates and correctional workers can raise, including security breaches and the reputation of the agency, correctional authorities have created and implemented anti-fraternization policies to regulate relations between correctional staff and inmates, both within and outside the correctional environment. These policies prohibit employees from engaging in relationships, romantic, financial, or otherwise, with current or former inmates and their families. Shoring up these policies would create another measure of protection for the agency and address another vector for sexual abuse in custody.

VI. Recommendations for Moving Forward

I hope I have given you a useful overview of the concerns I see in the Edna Mahan Facility based on the information I had at my disposal. To that end, I would recommend the following:

1. Strengthen the ability of Edna Mahan to address these issues as part of their PREA and other compliance efforts.
2. Provide funding for development of specialized training for staff and administrators.
3. Data collections for prevalence of sexual abuse that include all reported incidents.
4. Ensure inmate safety comes first regarding possible retaliation following a report.

5. Create training practices for new officers and regular training and sensitization specific to sexual assault/PREA as current training only addresses "undue familiarity," "inmate manipulation," and broadly, PREA.
6. Encourage the agency to seek technical assistance from the PREA Resource Center

VII. Conclusion

Based on my work over the course of over 30 years, first as an advocate for people in custody, then as Project Director of a national effort to address sexual abuse in custody and finally as a Commissioner serving for 5 years on the National Prison Rape Elimination Commission, I feel strongly that New Jersey correctional facilities have a unique ability and responsibility to address sexual abuse in their settings. However, in order to do that, the issue of sexual abuse in custody has to be a priority for correctional agencies.

Thank you again for inviting me to be here today and for the opportunity to speak to our proposed standards and our key findings and recommendations.



**American Friends
Service Committee**

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NEW JERSEY SENATE LAW AND PUBLIC SAFETY COMMITTEE HEARING
ON SEXUAL ABUSE AT EDNA MAHON CORRECTIONS INSTITUTION FOR WOMEN

TESTIMONY BY BONNIE KERNESS, MSW
PROGRAM DIRECTOR, AFSC PRISON WATCH

FEBRUARY 22, 2018 10:30 A.M.

STATE BUILDING

TRENTON, NJ

My name is Bonnie Kerness and I am Program Director of the American Friends Service Committee's Prison Watch in Newark. We have been monitoring and advocating on behalf of men, women and children in New Jersey prisons since the mid 1980's. One of the ways we do this is by receiving a daily explosion of letters, telephone calls and visits from prisoners, the formerly imprisoned and members of their families. During this extended period, we have always and often heard from women and their families about sexual abuse, racial discrimination, harassment, mental health issues and other conditions of confinement which are not only shameful, but are illegal according to Federal and New Jersey law and Department of Corrections standards and administrative codes.

The issue of prison rape is so serious a problem nationally that in 2003, Congress passed the Prison Rape Elimination Act. Unfortunately, the "elimination" part of that legislation was only intermittently enforced. The recent outcry and litigation from women in Edna Mahon Correctional Institution reflects what the women in New Jersey jails, immigrant detention facilities, and halfway houses have shared with us for decades - that oppressive power is being used every day in these spaces in unspeakable ways.

Prisoners tell me that everyone in specific prison units knew that certain officers would pursue some of the women relentlessly. Some women give into rape or sexual abuse to get extra food, cellphone use, extra privileges or even sanitary napkins. One woman shared that in the prison's Day Room, officers made "you strip down in front of male officers, being forced to expose ourselves before open windows where other officers were watching". I was told that "Even if you had your period you had to drop your pants and your pads." She described feeling regularly degraded and horrified.

I had another tell me that her skin crawled when the officers would pat search her saying that, "this is the best part of my day". I have received testimony that should anyone refuse this abuse, they would be

sent to the solitary confinement unit for an undetermined amount of time. One described seeing very young women cry when they were sexually fondled in this way. Yet another reported that in Williamson cottage, there is a mattress in the basement. During count, which could last 35 minutes, one young woman was forced to regularly go downstairs with an officer. I was told that, "You cannot report what you are seeing because you risk getting a charge". In one particularly disturbing call a woman noted, "that was not part of my sentence to perform oral sex with officers". I have been repeatedly told by women about their experiences of filing dozens of complaints without a single administrative response.

Sexual violence is also used as a tool to subdue prisoners whom guards see as problems. Many of those "problem" women are placed in maximum security and then assaulted repeatedly, often unable to communicate their abuse to anyone. One woman reported holding semen in her mouth, so she could "prove" her humiliation. The women who speak the unspeakable to us are not alone. According to the Department of Corrections own website, of the 100 sexual assault reports acknowledged by the Department since 2012, just two (!) have been recognized as having merit. Very often, and we are seeing it right now, is that even when officers are tried and convicted, they do not have to register as sex offenders as is required by New Jersey's Megan's law because, the people who prosecute them, who are in office to uphold the law, permit a plea bargain which includes this illegal non-compliance.

Former US Supreme Court Justice Harry Blackmun has stated: "Prison rape not only threatens the lives of those who fall prey to their aggressors, but it is potentially devastating to the human spirit. Shame, depression, and a shattering loss of self-esteem accompany the perpetual terror the victim thereafter must endure". What the Justice was referring to are the symptoms of post-traumatic stress that women often come home with. At AFSC we see the injured human spirit of formerly imprisoned women daily.

The public pays heavily for these institutions without knowing what is happening behind those walls. This system is authorized only to remove people from society, not torture them. What is happening to our sisters and brothers in prison reflects poorly on our prison system and on us as a society, and exposes whole families and communities to the aftermath of institutional violence. Because these crimes of sexual slavery and violence occur to people in government custody we bear responsibility, right alongside of those who ignore the law. The women prisoners who have spoken out have done so with great courage. Speaking truth to power is fraught with severe consequences. These women have done so at a time when sisters throughout the country identifying as "Me too!" are calling for a change in the male culture which dominates sexual violence. This outcry in New Jersey is largely comprised of women who are traditionally poor and women of color, and these dynamics feel uncomfortably close to slavery. Their voices have reached even to the US Department of Justice who recently called on the AFSC and Jean Ross to help them scrutinize the abuse that women are reporting.

In the case of women in prison, we as a community and you as legislators need to discover where the proverbial "buck" stops. Administrators have a long history of ignoring very justifiable complaints, so this becomes a very layered issue with an equally layered need for change in current policies and practices. So where does the ultimate accountability lie: is it with a Commissioner of Corrections who seems to have little knowledge of or even power over the behavior of front-line officers? Is it with the Union that allows and accepts that its membership behaves in a manner completely unacceptable in any profession, let alone in one fraught with unimaginable power over another human being? Is it with the administrators who receive the complaints being submitted via the kiosks? Is it with the Superintendent of the prison who may then disregard those complaints which reflect poorly on the administrative

practices at their institution? Is it the Special Investigations Division who ignores rather than investigates those cries for assistance? Or has it been for decades the responsibility of the Hunterdon County Office of the Prosecutor who has been discounting these calls for help. After monitoring the women's institution for decades, after receiving letters and hearing accounts of the most devastating nature, I still don't know the answers. I only know that right now is a time to have this dialogue. You cannot give me a reason for the kinds of testimonies that come into my office every day. Legislators need to obtain answers to these crucial questions giving us the opportunity to resolve who we are and who we want to be as a society.

I do not know how you legislate a culture of cruelty, white supremacy, neglect and sexual misconduct all conducted with impunity in a system hidden from public scrutiny. Despite federal and state legislation, there is no community oversight, although it is badly needed. The public needs accessibility and the right to demand accountability. Because of the daring of the women in Clinton, the bravery of those who have survived and come home, the willing lawyers, the extraordinary media coverage, and Hearings such as this, New Jersey is poised to lead the country in preventing the sexual abuse of girls and women in jails, prisons and juvenile and immigration detention facilities. If you really want to hold Hearings of substance, hold several throughout the State for women who have been released from Clinton. Then find a safe way for the girls and women inside to speak with candor and without terror about what is happening to them. It is crucial for us to acknowledge and remember that the Department of Corrections is more than a set of institutions, it is also a state of mind. It is that state of mind has led us here today.

I have been monitoring New Jersey prisons for 45 years. AFSC Prison Watch has been issuing complaints, reports, letters of human rights concern and meeting with corrections officials for equally as long, with no one listening. We remain grateful that this Committee is willing to listen to those of us, inside and out, who have felt compelled to form our own oversight community.

The AFSC will continue to work with groups and coalitions toward a movement against all forms of torture. We look forward to the change that legislators have the power to produce in joining us when we collectively say, "not in my name" can torment, rape, sexual misconduct, discrimination, abuse of power or sexual slavery go on any longer in the State of New Jersey.

Thank you.

Testimonies of Torture in New Jersey Prisons

EVIDENCE OF HUMAN RIGHTS VIOLATIONS

A collection of testimonies from prisoners in New Jersey prisons, documenting uses of physical, chemical, and no-touch torture, among other human rights abuses.

American Friends Service Committee

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February, 2015

INTRODUCTION

The American Friends Service Committee (AFSC) is a Quaker faith based organization that promotes lasting peace with justice, as a practical expression of faith in action. AFSC's interest in prison reform is strongly influenced by Quaker (Religious Society of Friends) activism addressing prison conditions as informed by the imprisonment of Friends for their beliefs and actions in the 17th and 18th centuries. AFSC has spoken out on behalf of prisoners whose voices are all too frequently silenced. Drawing on continuing spiritual insights and working with people of many backgrounds, we nurture the seeds of change and respect for human life that transform social relations and systems.

For over two decades, the Prison Watch Program of the American Friends Service Committee, located in Newark, NJ, has been collecting testimonies in the form of letters from prisoners across the United States. These letters document various human rights abuses in US prisons, including, but not limited to, physical, chemical, and no-touch torture at the local, state and federal levels. It is clear that the concepts of international human rights law need to find their way into the US law enforcement, judicial and prison systems. The United States has signed and ratified three important and relevant United Nations Conventions: *The International Covenant on Civil and Political Rights*; *the International Convention on The Elimination of All Forms of Discrimination* and *the United Nations Convention against Torture*. The conditions and practices that the imprisoned in New Jersey reflect in this pamphlet clearly describe violations of these treaties.

In the Fall of 2014, Pope Francis was quoted widely as saying that maximum security prisons can be a form of torture since their "principal characteristic is none other than extreme isolation," which can lead to "psychic and physical sufferings such as paranoia, anxiety, depression, weight loss and significantly increase the chance of suicide. In November 2014 in Geneva, Switzerland, the UN Committee against Torture expressed grave concerns about the torture and deaths of US detainees overseas and prisoners held in U.S. prisons, jails, and juvenile detention facilities. The Committee reported that while noting that the State party has indicated there is "no systematic use of solitary confinement in the US", the Committee remains concerned about reports of the extensive use of solitary confinement and other forms of isolation in US prisons, jails and other detention centers for purposes of punishment, and discipline. Furthermore it is concerned about the use of solitary for indefinite periods of time, and its use against individuals and individuals with mental disabilities". Readers can access AFSC's Shadow Report containing relevant national testimony at <https://afsc.org/document/survivors-speak-prisoner-testimonies-torture-united-states-prisons-and-jails>

The recent acknowledged use of "brutal" methods of torture detailed in the Senate Intelligence Committee's report on the CIA's use of torture overseas is relevant to what people in New Jersey prisons are telling us. These past years have been full of complaints from prisoners and their families in New Jersey describing inhumane conditions including cold, filth, callous medical care, use of extended isolation often lasting years, devices of torture, harassment, brutality and racism. We have received vivid descriptions of and drawings of four and five point restraint hoods, restraint belts, restraint beds, stun guns, stun grenades, and stun belts, spit hoods, tethers, and

waist and leg chains. Many testify that “no touch torture” is the worst treatment inflicted on people. This psychological assault can include humiliation, sleep deprivation, sensory disorientation, extreme light, extreme dark, extreme cold or heat, extended isolation often lasting years, including other forms of situational placement, a systematic attack on all human stimuli.

New Jersey has a unique history in terms of the use of solitary confinement, in particular. In his 2003 book *Inside Out – Fifty Years Behind the Walls of New Jersey’s Trenton State Prison*, former guard, Harry Camisa says, “The guys singled out for the MCU (Editor’s note: Management Control Unit for long term isolated confinement) were viewed as potential troublemakers or political leaders who needed to be segregated to keep them from influencing the rest of the population. This was a new and controversial concept in New Jersey.” The unit indefinitely isolated activists and leaders from the prisons general population, as it attempted to psychologically reshape their values by subjecting them to an extraordinary level of physical control and sensory deprivation.

New Jersey was a key state for people involved in political activities such as the Black Panther Party and the Black Liberation Army. It is also a corridor state and often members of other political formations travelled through the state – many finding themselves imprisoned at Trenton State Prison. Relevant to the continuing use of the MCU was Executive Order 88, signed in 1984 by former Governor Thomas Kean, which mandated that “any persons believed to be a member of a terrorist organization or other similar groups committed to violence, murder or mayhem as a means to achieve their purpose could be placed in the Management Control Unit pre-trial.” The AFSC, in cooperation with people held in the MCU, began the Control Unit Monitoring Project in 1987 which conducted ongoing observations of the unit via visits, telephone calls and letters. Students from many colleges and universities assisted in this effort. The effort resulted in an August 1991 article in the Trenton Times entitled “Modules or Cages? TSP Enclosures Stir Protest”; a 1992 Town Meeting and Silent Vigil held outside the prison; a 1992 article in the Bergen Record and another in the New Jersey Tribune and ultimately a 2010 New Jersey Network program called “Due Process: Solitary: Who and Why”. That Program continues to be shown throughout the country on Cable television stations.

On December 31st, 2014, a Star Ledger headline read “Ex-Inmate Settles Lawsuit over Claim he was strapped in Chair.” The lawyer for the former prisoner called the occurrence “an instance of torture” describing seven officers entering the cell, spraying mace, punching, and kicking the downed prisoner, cuffing and shackling him and then strapping him in a restraint chair for 19 hours. In another well publicized and well documented occurrence of torture, a prisoner paid an officer to bring in a small video camera. Through the slit window in his isolation cell, the prisoner filmed for four months capturing senseless brutality and abuse. Readers with computer access can see a portion of that film if you google “Sneak Peek”.

What follows in these pages are excerpts from the countless letters that the AFSC and Jean Ross, Esq. have received effectively providing witness that torture is not only used extensively, but actually condoned in New Jersey. We join with prisoners, their loved ones and activists on both sides of the walls throughout the state in saying, not in our name.

Acknowledgements

This report would not have been possible but for the courageous individuals held in New Jersey prisons and jails who have risen above the specter of reprisal and brutal punishment to give testimonies of the abuses they and their peers endure throughout the prisoners in our state. The support and assistance of American Friends Service Committee program staff were crucial in the development of this report. Generous contributions and assistance provided by Ojore Lutalo and Jean Ross, Esq. are deeply appreciated. Jean is an AFSC volunteer who has made herself available to work with people in prison and their loved ones in the community for over 13 years, on behalf of the People's Organization for Progress. A special thank you to this pro bono attorney who has generously added to the testimonies that the AFSC in New Jersey has received. Thank you also to Aliya Howard for her patient editing of the manuscript. A very special gratitude to Jessica Gonzalez for her tireless patience and hard work towards making this project a reality. Without her input, we could never have realized this collective effort.

Keith Harvey, Northeast Regional Office Director

Amy Gottlieb, Northeast Office Associate Director

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I. THE STORY OF OJORE LUTALO

The story of Ojore Lutalo is unique-as is the story of every prisoner represented in this document. We tell Ojore's story more expansively because he was our "ground zero" person when he wrote to AFSC in 1986 after having just been placed in Trenton State prison's (now renamed New Jersey State Prison) Management Control Unit (MCU). That control unit was opened in 1975 and was modeled directly on San Quentin Prison's "O" Wing. Ojore wrote asking what a control unit was, why he was there and how long he would have to stay there. He described extreme isolation with 24/7 lock down, limited or no contact with other people, and a psychological warfare that we now know as "no touch torture."

In one of his early letters, Ojore wrote: "How does one go about articulating desperation to another who is not desperate? How does one go about articulating the psychological stress of knowing that people are waiting for me to self-destruct? I did not do anything to deserve this." Ojore went on to describe being awakened by guards dressed in riot gear holding barking dogs at 1 a.m. every other morning. Once awakened, the prisoners were forced to strip and gather their belongings, while feeling the dogs straining at their leashes snapping at their private parts. He described being terrorized and intimidated, and the humiliation of being naked without knowing whether the masked guards were male or female. If we think back to slavery and to images of the civil rights movements, we recognize that dogs have been used as a device of torture for hundreds of years in the United States.

We monitored Ojore from 1986 through his court-ordered release from prison in August 2009. During the time he was kept in isolation, we confirmed that he, along with others in the MCU, was being held there for political reasons-for their beliefs. Ojore was considered a black radical capable of imparting his radical belief system to others. The AFSC communicated this to the Bergen Record Newspaper reporter, Bill Sanderson, who in 1992 wrote a newspaper article about Ojore and others called "New Jersey Political Prisoners Do Hard Time in Solitary." In that article, Bill reported: "Since 1986 Ojore N. Lutalo has been in solitary confinement at New Jersey State Prison, locked alone in his cell 22 to 24 hours a day. He isn't being treated this way because he broke prison rules-if he had, he would have been returned to general prison population years ago. Instead, in a nation that venerates freedom of thought, Lutalo is a political prisoner-one of 77 inmates segregated from other convicted criminals because prison officials fear their political and religious ideas could foment trouble. Because Lutalo broke no rules, prison officials say his placement in the management control unit, or MCU, isn't punishment. However, prisoners say life is hard enough in NJ State, the state's most dangerous and most secure prison, without enduring the MCU's enforced isolation and idleness."

In 1994 New York Channel 9 reporter Peter Fuentes aired a piece for their news programs headlined "Prison Politics" confirming that the "New Jersey Department of Corrections says these prisoners are dangerous because they have strong political or religious ideas and are capable of leading others to riot." In 2001, a documentary film maker received permission from the Department of Corrections to film "In My Own Words," a 45-minute documentary about

Ojore which aired on a New Jersey cable station and at venues across the country. After 16 years in isolation, Ojore and many others were released from the Management Control Unit based on the finding of a Special Master ordered via court litigation in 2002.

For those of us at AFSC's Prison Watch and others who monitor friends and loved ones in isolation units, the act of "disappearing" someone is common. Family members call from all over the country, frantic because they have not heard from a family member via an anticipated call or letter. This happens especially frequently in the "special needs" or mental health units in supermax prisons throughout the country. The absence of contact with the loved one causes alarm, and often no one responds to the family's calls of concern.

From October 13th, 2005 through October 18th, 2005, Ojore suddenly disappeared from contact. For a month prior to his disappearance, no one had heard from him via mail or telephone, nor was he allowed to have visitation. No one could get any information from the Department of Corrections about his well-being.

He was held incommunicado in New Jersey State Prison's mental health unit, called 1-C by prison workers and the "boom-boom room" by prisoners. There he was not allowed to make telephone calls, send or receive personal mail, receive personal or legal visits, or take part in any activities at all. He was held in complete isolation suffering the worst form of "no touch torture."

What follows are excerpts from Ojore's experience. Imagine the thousands of people experiencing something similar in prison cages across the country. Imagine that this is happening to someone you love.

Thursday, October 13th, 2005 – "The lockdown started around 1:30am, when a cell extraction team of several security guards, dressed in combat gear, woke me up and said: 'per orders of the warden, you are to be moved to 1-C (the so called mental health unit).' So I started thinking, why the 'boom-boom room, since it is well known that I do not suffer from any psychological decompensations. . . I get up and I start feeling around in the darkness of the cell for my clothing because they turned the power off. The sergeant asks for a flashlight, but they don't have one among themselves . . . I got dressed for the unexpected, but I could not find any thermal underwear in the dark . . . As I enter 1-C, I see four or five cells located behind a floor to ceiling fence with another fence built around the first cell, in which I am placed. They uncuff my right hand and tell me to place my hand behind my head and strip. I go through the strip search motions: raise my hands, open my mouth, stick my tongue out, lift my private parts, turn around, raise my right foot, bottoms up and then I spread the cheeks of my ass. Then they tell me to turn around and face the wall until they leave. They leave and I turn around to put my clothing on, only to find out that they took my clothing with them. There I stand, naked in a cold water cell, standing next to a puddle of water! . . . I find I am in a 'close-watch-cell'! One camera is over the dirty, uncovered foam mattress on the floor, which is also dirty. The other camera is located over the cell door. The cell light is also located high up against the wall and the white burning lights stay on twenty four hours a day, making sleeping difficult and your eyes start feeling like they have sand underneath your eyelids. Focusing becomes difficult. The vent in the cage is high up

against the wall, and blows out freezing cold air 24 hours a day. The only bedding I am given is lying on top of the dirty uncovered mattress and are two paper thin sheets. I tear up a sheet to cover up the puddle of water on the floor to keep my bare feet dry and wrap the other sheet around my body. . . . I start to feel the coldness of the cage assaulting my naked body . . . I can feel my body starting to shake so I get off the sink and start pacing the floor. When I grow weary of pacing the floor, I sit atop the stainless steel sink hugging my body with paper sheet. I entered the boom-boom room at 1:30 am.”

Friday, October 14th – “. . . at 9:30 am, they gave me back my clothing! The telephone is ringing with calls coming in from other prison security guards wanting to know Lutalo’s status, if I had lost a sense of myself, meaning if Lutalo went crazy. I grow weary of pacing the floor and sitting atop of the sink, so I cover the dirty foam mattress with a paper sheet and lay down fully dressed and doze off. I wake up to the sound of splashing water, to see water leaking from the ceiling and running down the wall and seeping under the mattress. I call the guard who comes to the cage door. I ask if he could move me to another cage. Now the water is running underneath the cage door. Two hours later they move me into cage #2 which doesn’t have the 24 hour camera watch. Cage #2 has another dirty foam mattress with two paper sheets atop it and is just as cold as Cage #1. I start pacing to generate some body heat. The stool and the cage shelves were removed, the light switch has a steel plate over it and the wall sockets have steel plates over them. The cage light stays on 24 hours a day. The floor, toilet, and sink are filthy!”

Saturday, October 15th – “Just like I was illegally place in the boom-boom room, it was illegal for the warden to have me placed in a cage that was condemned. I stayed in cage number two until Saturday afternoon when a sergeant came to the cage and told me that I was being transferred to ‘I-C overflow’. They put me in cage #1 and I entered the cage to find a steel bed frame bolted to the wall and floor, with another dirty foam mattress and a working light switch. The cage had two mounted close watch cameras and was just as cold as the other cages. I was given two security tooth-brushes, a small tube of toothpaste, a bar of soap and one dirty very thin cotton spread and four paper wash cloths.”

Sunday, October 16th - “You call this a democracy?”

Monday, October 17th – “My eyes are hurting more from the glare of the 24 hour bright white lights! You call this a democracy? I feel the coldness of the cage assaulting me. I pace, I doze, I cover the dirty mattress foam and lay down. The way I am now being treated is illegal. This cage is condemned. You call this a democracy?!”

Tuesday, October 18th – “At 12:40 am, five guards came into the cage with a nurse. The sergeant told me that the nurse wanted to take my vitals. I thought this was a strange request

since I had not requested any medical assistance and it was 12:40am with five guards standing there. The nurse only took my blood pressure and left the cage without taking my temperature, pulse or heart rate or asking any questions about my medical history, which I thought was all a part of taking one's vitals. Around 8:30 am on Tuesday, three security guards show up and told me that I am being moved to the Management Control Unit. I am handcuffed and escorted to the MCU. I enter MCU and Cell #6 opens up, the door echoing. I step into the cage to discover that I am in another 'close watch' - one with another dirty foam mattress on the floor and a camera mounted to the ceiling. The stool and cage shelves were removed, the light switch has a steel plate over it and the wall sockets have steel plates over them. The light stays on 24 hours a day. The floor, sink and toilet are filthy. . . I still do not know why I was placed on no contact status, why I was placed in the boom-boom room or why I was re-interned in the management control unit. All of this without ever breaking a single rule! You call this a democracy?"

October 20, 2005 – Once Ojore was able to be in touch with us and others, he let us know that he had illegally been placed back in the Management Control Unit. No charges, no reason – and after a Special Master had released him three years prior. When I called the Department of Corrections, it took many conversations before I was bluntly told that this was at the request of Homeland Security. – *Bonnie Kerness, American Friends Service Committee Stopmax Conference (6/08)*

In yet another incident of Ojore "disappearing" without any reason, he was removed without explanation from the MCU and placed in a bloody cell. If we remember the photos coming out of Abu Ghraib of the "no touch torture" where the man was forced to stand for hours with his arms out, not moving, we can picture what went on in this bloody cell for the six hours he was forced to stand there. Again, this is happening every day, throughout the United States. It is torture that occurs without any chemical or physical abuse. When he was finally able to contact us, the AFSC received pro bono cooperation from Jean Ross, an attorney who wrote to the Department of Corrections:

" . . . it was immediately apparent that something was seriously wrong. There were streaks of blood visible on the backs and side walls of the cell, and on the glass window of the cell door. The floor was visibly blood-spattered, to the extent that the blood adhered to Mr. Lutalo's boots. There was also blood in the sink. Nevertheless, Mr. Lutalo was locked in that cell and he remained there for 6 hours. . . Mr. Lutalo was then moved to cell #5. He was not allowed to shower after this second transfer, so he had to wash the blood off his boots in the sink of his new cell. Mr. Lutalo then observed prisoners in white jumpsuits and white rubber gloves enter cell #1, with plastic bottles of yellow bleach and red plastic toxic waste bags. He later learned that the previous occupant of that cell had attempted suicide about a month prior to his placement, and that the cell had not been cleaned since that time. . . The protective measures ordered by some member of the prison staff imply that the dangers of exposure to blood borne infection were known by some responsible member of the prison staff. This raises the question, then, of why Mr.

Lutalo was placed in cell #1, in its original bloody state, by the persons who transported him to 2B left.” – *From lawyer Jean Ross’s letter on behalf of Ojore Lutalo, New Jersey State Prison, Trenton, NJ (8/31/07)*

During the quarter century that we monitored Ojore Lutalo in isolation, he was never assaulted either physically or chemically. Currently, Ojore Lutalo spends his time volunteering for the American Friends Service Committee Prison Watch Project in Newark, NJ. Upon entering the office, visitors are welcomed by Ojore’s collages, made from photographs and cutouts from magazines pasted alongside the text of legal documents, blueprints, and Lutalo’s words. They are a product of his 22 years in solitary confinement. “I would create these collages to help maintain my sanity,” said Lutalo. “I would get up every morning. I would read and write, exercise. I’d write letters. Some days I would do collages all day long. I’d just cut and paste, cut and paste.”

Throughout this handbook, the reader will encounter a few samples of the collages Ojore Lutalo created while in prison.

COLLAGE CREATED BY OJORE LUTALO

COLLAGE CREATED BY OJORE LUTALO

Psychological wounds

Introduction

What is "no touch" torture?

BEHAVIOR CONTROL

YOU CALL THIS A DEMOCRACY!

TRUE THOUGHTS

PEOPLE TELL

THEIR STORIES

Grim

Reality

Let It

Be Said:

OJORE N. LUTALO
P.O. #61-59860
SBI#0000901548
TRENTON, NJ 08625

Without controversy and hard lines, you'll never know who you'll be with, critical situations come your way and you'll never know who your friends are.

I was held incommunicado for six (6) days in New Jersey's Trenton State Prison draconian and nightmarish mental health unit called I.C. by prison workers and the boom-boom room by most prisoners. I was not allowed to shower, change my clothing, have soap, toothpaste, toothbrush, wash cloth or towel. I was not allowed to make telephone calls, send out or receive personal or legal mail (see attached). I was also not allowed to receive personal or legal visits or take part in any inside or outside recreational activities.

Breaking Men's Minds:

Introduction

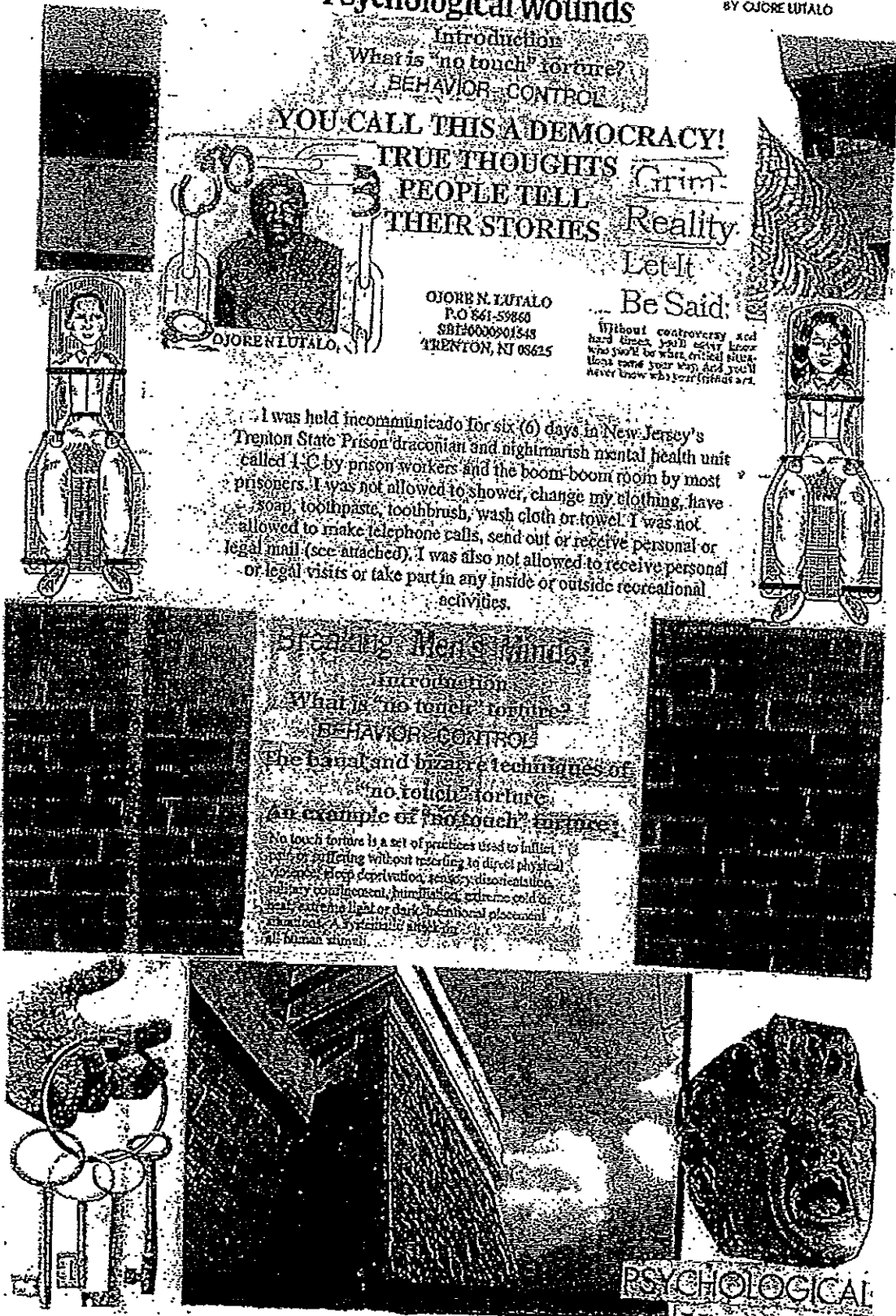
What is "no touch" torture?

BEHAVIOR CONTROL

The brutal and bizarre techniques of "no touch" torture

An example of "no touch" torture

No touch torture is a set of practices used to inflict pain or suffering without resorting to direct physical violence. It includes: sleep deprivation, sensory deprivation, sensory confusion, humiliation, extreme cold or heat, extreme light or dark, re-orientational placement, isolation, systematic and unsystematic physical stimuli.



PSYCHOLOGICAL
Violence

II. ISOLATION / NO TOUCH TORTURE

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 1

... the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

International Covenant on Civil and Political Rights

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 10

- 1) All persons deprived of their liberty shall be treated with humanity and with respect for the dignity of the human person.
- 2) The penitentiary system shall comprise treatment of prisoners the essential of which shall be their reformation and social rehabilitation.

Article 16

- 1) Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public, official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.
- 2) The Provisions of this Convention are without prejudice to the provision of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.

International Covenant on Civil and Political Rights (CCPR)

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 4

1. Each State Party shall ensure that all acts of torture are offenses under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offenses punishable by appropriate penalties which take into account their grave nature.

U.N Covenant on Treatment of Prisoners: Standard Minimum Rules for the Treatment of Prisoners

Rule 30

1. No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.
2. No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defense. The competent authority shall conduct a thorough examination of the case.

Rule 31

Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

Rule 32

1. Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.
2. The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.
3. The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Rule 33

Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

- a. As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

- b. On medical grounds by direction of the medical officer;
- c. By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

U.N Covenant on Treatment of Prisoners: Standard Minimum Rules for the Treatment of Prisoners

Principle 7

Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

TESTIMONIES

"I have not had any physical human contact in 2 ½ years, I've not been allowed to wash any of my clothes, clean my cell, clean my shower (I HAVE MY OWN BUILT IN SHOWER), receive a haircut, use the phone, receive visits, my outgoing mail was being opened, refused legal assistance, my meals are being tampered with, they are serving me WITHOUT gloves or hair nets on, sometimes feeding me HOURS AFTER everyone else has been served and this is done by the supervisor. They leave my tray in here all night until the next morning when I am served breakfast and this accumulates bugs I am videotaped leaving as well as coming back in my cell at all times and this is done by a FEMALE S.I.D. officer making me bend over and spread myself as well as show my genitals." -*L. A, East Jersey State Prison, Rahway, NJ, 2008*

"... on July 2, 2011 I was placed in lock up in Northern State Prison with nothing other than the clothes I wore when I was locked up and a sheet and blanket that I was given by the lock up officer. As of yet I have not been given my property so I cannot read up on / sometime studying my religion." -*J.B, Northern State Prison, New Jersey, 2014*

"... I take sleeping pills and still I don't sleep. I am stressed. I feel as if my government and society have abandon me. I grew more and more detached the longer I am here. I am here. I'm afraid when I do return to the free world. I will not know how to behave in company. The loneliness seems more natural. I don't even know my family no more. All I did to get in solitary confinement was refuse to sign a piece of paper. Also I wrote to take programs but was refused." -*R.B, New Jersey, 2014*

"The captive informed of is unjustly placed in solitary confinement prior to any attempt to substantiate the allegations against him/her, depriving them of access to school/religious programs, commissary, property, and visitation privileges." -*D. S, Northern State Prison, Newark, NJ, 2014*

"I was beaten in Northern State Prison then shipped to Trenton. The officers, 2 of 6, who attacked me had a hearing I learned that nothing was done. This happened November 2011. They shipped me out and threatened me with street charges. There were over 50 witnesses to my attack. I was brutalized! During this 6 month period I suffered numerous anxiety attacks due to the long term torturous isolation. I've been in isolation for 6 months. I had to be placed on anxiety medication. While in solitary here at Trenton, an officer planted a federally controlled drug in my cell. He claimed on a "blue sheet" that the drugs were in a white envelope I challenged the "blue sheet" and had a cross examination at the hearing with a sergeant who was involved and the clearly mendacious employee. I wrote an extensive statement in my defense outlining and listing relevant case law. The 'committee' illegally agrees to hand down orders to have me drugged by force. A government psychiatrist who stated that she didn't agree with that order and expressed ethic concerns. She quickly removed / reversed the orders to drug me up. Shortly later the doctor moved on. She no longer works here, perhaps she's seen too much corruption." – *J. W, New Jersey State Prison, Trenton, NJ, 2014*

"... We are not housed in Ad-seg for 22-23 hours a day, but for 24 hours a day. . . second, we are forced to enter a cell that is unsanitary, another person's feces clung to the sides of a hole in the wall; another person's blood on the sleeping mattress and floors. The dust and dust mites, the stench of the stale decayed water that just sits from a broken furnace. Sinks that don't stop running water 24 hours a day. Day after day, the sound feels like drops of water dropping on the head of the constant listener. . ." – *R.B, unknown, New Jersey, 2014*

The following was written by an advocate for a prisoner at New Jersey State Prison: "Mr. C.P. is a Colombian Citizen from Caldas, Antioquia. He is serving a long term sentence for the crime of murder and has been detained at New Jersey State Prison for twelve years. During that time he has not accumulated a disciplinary record, he has fully complied with institutional rules; does not belong to any gang, does not use or sell drugs, and attends school. On September 16, 2011 he was detained and sent to the punishment wing of the prison (1-Left) on what seems to be the strength of an anonymous note. He has been placed in TCC (Temporary Closed Custody) for the last 22 days. . . As of today, 22 days later and 19 days over the limit allowed by law, Mr. P has been kept in solitary, in the same punishment wing without having been charged with an institutional violation and / or without just cause to show that he is a danger to the prison population or disruptive of the normal functioning of the institution. His isolation, his placement in solitary without cause, and the denial of the rights granted to him by Title 10A, the Constitution of the State of New Jersey, and the Constitution of the United States, is also a violation of his human rights. Mr. P is being kept in circumstances similar to those in Guantanamo: No charges, no due process and complete isolation from the world. He has not been allowed even to contact his consulate or his immediate family. Mr. P is a person diagnosed with severe anxiety and depression and has attempted suicide in the past. Although, he has been

visited by the institutional psychologist, the harshness of the conditions in which he has been placed can aggravate his mental health. At this time he is not allowed religious services, recreation, out of cell time, a minute of sunshine, reading material, phone calls or simply the due process guaranteed by law. All people are entitled to due process but Mr. P has been denied that right. He can only shower every three days, and the noise in that particular wing absolutely impedes normal sleep causing severe sleep deprivation and severe stress." – *unanimous, New Jersey State Prison, Trenton, NJ, 2011*

"The reason I am writing you is because of the cruel and unusual treatment I have been subjected to. I am in detention for 2 and half months under temporary housing. I have nothing of my property with me. This is not the first time they keep me in isolation for months. I am not a gang member or any threat to the prison. I keep on getting harassed and pushing me to kill myself by taking my property and treating me like trash." – *K.F., New Jersey State Prison, Trenton, NJ, 2011*

"I am detained for 4 months in a detention unit (1L) with no charges or anything to justify me being there. I was deprived of my rights, I have mental problems now and lost time restriction to file my appeal with federal courts." – *K. F., New Jersey State Prison, Trenton, NJ, 2011*

"I've been in lock-up since 8.24.11 till 9.29.11 and on detention for 21 days as of today, which makes 59 days in total. On a charge I did not commit and would never commit. But I do want to go home and that means continuing my due - process. I would like that chance to show I can RE maintain in Society as a positive member of the community. I would like to put on the table a compensation to both ends an obscure legality, an Alford plea. Because even though I am innocent, I am willing to live with the guilt. I want to be with my family." – *R.B., New Jersey State Prison, Trenton, NJ, 2011*

"I am being penalized for my willingness to lie about . . . As of this writing, I am currently in the hole 10 days past the no more 30 day rule prescribed by 10A disciplinary procedures under subchapter 9. On the 6th day past my 30 days completed I received new charges for .754 which allegedly took place on 12-05-10 & 5-11-11." – *J.P., New Jersey State Prison, Trenton, NJ, 2012*

"I am writing to request the manual for Solitary Confinement Survival. I believe the manual will be very useful because the mental torture I'm enduring sometimes seems a bit much to bare. I have faith, but I'm tired of these people treating me like an animal. I need your help, please!" – *R. T., New Jersey State Prison, Trenton, NJ 2013*

"The CIA's psychological paradigm for "no touch" torture fused two new methods "Sensory Disorientation" and "self-inflicted pain" whose combination, in theory would cause victims to feel responsible for their own buffering and those capitulate more readily to their tortures. Refined through years of practice, sensory disorientation relies on a mix of sensory overload and sensory deprivation via banal procedures is isolation the intense interrogation, heat and cold light and dark noise and silence for a systematic attack on all human stimuli. The fusion of these two techniques sensory disorientation and self-inflicted pain creates a synergy of physical and psychological trauma whose sum is a hammer blow to the existential platforms of personal identity. In 2004, the Red Cross reported, "the construction of such a system . . . cannot be considered other than an intentional system of cruel, unusual, and degrading treatment and a form of torture." (McCoy, 2006).

- Torture was often or sometimes justifiable to gain key information (Swanson, 2012, p. 24)
- I was deprived of food, sleep, no natural light
- I was restricted to my cell for 24 hours every day
- Prohibition on isolation for more than 15 days" -*J. C, unknown, NJ, 2013*

"I was assaulted four different times by correctional officers (excessive force) once in 2008, 2009, 2012, and 2013. . . I have endured sleep deprivation, screeching sounds, extreme silence, extreme cold and heat, intentional situational placement, humiliation-a systematic attack on all human stimuli. . . Prisoners are constantly being bitten and could possibly become infected with diseases such as MRSA." - *P. B, New Jersey State Prison, Trenton, NJ, 2014*

". . . For at least the next 67 days . . . I was literally chained to the metal bed frame in the middle of the cell, by a 3-4 foot section of heavy tow chain with defective shackles (no working safety locks) tethering me there for 24 hours a day. I was given perhaps at best six showers during this period of time and only three opportunities to change my clothing . . . the room temperature stayed at near freezing, and there were large fluorescent lights directly over the bed I was tethered to, that never turned off. When I complained to the Sheriff's deputies, I was told there was no on/off switch for the lights in my cell and there were likewise no temperature controls accessible." - *M.D, New Jersey State Prison, Trenton, NJ, 2010*

". . . I have some psychological damage because of the endless tension, frustration, harassment, stress and strain of everyday living in an abominable evil environment among thousands of different personalities and behaviors. There are times when my mental state is, in my mind, sound, while there are other times when I fall into such a deep depression that I feel I am never going to recover. This angers me because when I fall into that depression there is no one for me to go to for relief. Yet, though the decades I have learned to channel my negative energies and psychological damagers or impairment into areas of constructiveness rather than destruction,

which is why I do a lot of reading, studying and free thinking. . . But this is not the case for many. For many, the anger and tension within is so tight and turns into bitter rage, once exploded there are usually serious consequences to the individual or to others. One of the things that I have suffered and learned to deal with and adapt to a little, but still find hard to deal with, is the noise all day all night. A constant noise that yells in my face and no matter how much I try to blot the noise out, it has become a part of my psyche to where I do not hear the noise I cannot sleep. For many in prison we must 'half sleep'. That is, never go in to a sleep that you cannot immediately wake up at the slightest unfamiliar movement or sound, because that is a survival mode or mechanism one automatically acquires while in prison. . . Prison sharpens your senses because this also becomes a survival tool. But make no mistake about it, prisons are designed to destroy you; to destroy the personality of your 'self' and leave you broken and dependent."- N. G, *New Jersey State Prison, Trenton, NJ, 2014*

OPPRESSION

OPPRESSION

Caged Man Under the Thumb 24 HOURS

Breaking Men's Minds Introduction

What is "no touch" torture? BEHAVIOR CONTROL

No touch torture is a set of practices used to inflict pain or suffering without resorting to direct physical violence: sleep deprivation, sensory disorientation, solitary confinement, humiliation, extreme cold or heat, extreme light or dark. Intentional placement situations. A systematic attack on all human stimuli.

JOJORE NURENBERG 22 YEARS IN POLITICAL ISOLATION

1986/PO 861

SB# 0000901548

Trenton, NJ 08625

DANGEROUS TERRAIN Isolated

III. CONFINEMENT CONDITIONS

From the United Nations Basic Principles for the Treatment of Prisoners, Adopted and proclaimed by General Assembly, resolution 45/111 of December 14, 1990:

Principle 1: All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

Principle 5: Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military; medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each state Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangement for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

TESTIMONIES

"I was arrested from November 5th to December 10th (35 days) for violation of a restraining order. (I was locked up one time before for a drug charge, for 10 days.) I had a physical altercation with my wife and she called the police. I violated the restraining order she had against me by calling her afterward . . . I was in a 12 x 6 cell with another person who was detoxing off of alcohol. He was sweating and grunting. From November 5th to November 15th I was in the cell for 23 hours a day. There were 2 bunk beds, a sink, and a toilet. Sometimes the cell was very hot, and then it changed to cold. Cold air was blowing in the cell. I had a blanket, a pillowcase, and a sheet. I never took items to the laundry, I just washed them in the shower. There was nothing to read and I got no visits. It was cruel and unusual punishment . . . When I came in I had \$64. The officers stole my money. There was an intake fee of \$100 dollars, but they left about 2 or 3 dollars to me. I did not experience brutality at the hands of the guards, but

I did witness it. It was a wakeup call when I heard officers killed an inmate . . . A dog wouldn't sniff the food-it was nasty and cold. For breakfast we had stuff like cereal, oatmeal, powdered eggs, milk, and grits. For lunch and dinner the drinks would be a 4oz cranberry juice or this disgusting generic soda. My first thought was to stop eating, but I met another inmate who used to work out who inspired me. I started putting socks on my hands to do pull ups, and for each of my 35 days inside I force fed myself . . . I began to get sores on my lips and dry skin. Medical provided no lotion for me when I asked. I was very depressed. Cigarettes and chips became money. I gave up a tray of food for a haircut. My beard started growing long. In K-Pod they gave me a razorblade to share that I had to check in and out". *K.B, Middlesex County Correctional Facility, North Brunswick, NJ, 2015*

"I want to take a moment of your time to briefly inform you of the conditions here at New Jersey State Prison. Firstly, the money in the inmate trust account mysteriously disappeared and all programs it paid for stopped. While money is still being put aside for the trust, we have no idea where it is going. When prisoners complain they are singled out and accosted and put in lock-up. This unit I-left, the cells are not clean and reeks of urine and often has feces on the floor. You always have to clean a cell when placed in it but excrement is too far. S.I.D. then takes your property, mail and legal work, which they read and copy then illegally hold indefinitely. Also, the mail delivery. Family letters are weeks old when received which sometimes include money orders. Legal mail is time sensitive and days late can be a major blow to the appeal process . . . We are forced to brush out teeth with canine toothbrushes. When the dentist on staff complained he was told "there dogs, there we be no change in toothbrushes". While the rest of the state uses shank proof toothbrushes . . . The list goes on to police assaults for speaking up about conditions denial of jobs and most important of these is not being offered. Healthy food choices at Mess; on commissary or food packages and the price gouging on the items that are offered . . . Most men here including myself were sentence to die here. We are here "as punishment and not to be punished. We have a right to be treated respectfully, impartially and fairly" and excerpt from page 9 of NJSP inmate's Handbook, revised October 2007." - *C. R, New Jersey State Prison, Trenton, NJ, 2013*

"Currently, there are an overabundance of issues that warrant the remedial attention of executory officials who oversee the performance and policies implemented by custody and administrative personnel at the Passaic County Jail. Upon entering the Passaic County Jail (PCJ), the inmate is immediately struck by a large sign painted on the wall which reads, in part: 'THIS IS NOT A COUNTRY CLUB'. To say as much is an understatement. However, country club or not, PCJ has a history of resistance to uphold standards of human decency, and to conform to certain standards codified by law that prohibit the use of cruel and unusual punishment.

Intake for Booking Processing

All newly-arrived inmates are required to undergo a medical examination and quarantine placement only AFTER being placed in one of two holding tanks for several hours. It is not

uncommon to witness a newly-arrived inmate curled up on the floor from substance withdrawals, while the officer (s) presumed to monitor the habitants of this tank, via video surveillance, disregard the individuals suffering. These holding tanks are constructed of concrete and a thick, plate-glass window. They are also extremely over-crowded and offer no ventilation-even during the fervid temperatures of mid-summer. Each holding tank comprise a single steel component that consists of a sink and toilet, which is flanked by two steel benches that align opposite sides of the wall. It is not uncommon, however, to find that these sinks do not work, and that these holding cells contain neither soap nor toilet paper.

Issues with Plumbing Fixtures

In my experience, myself, along with ten other men on our housing unit (Max 2) were unable to take showers for several days because the cell I was placed in with two other men had a defective toilet that ran continuously, causing the showerhead to discharge scorching hot water. This was brought to the attention of several officers on multiple occasions, whose only recourse to action was to shut our water off altogether.

Steel Bed Frames

Upon entering PCJ, all inmates are issued one blanket, two sheets and a single mattress. However these mattresses are so threadbare and thin that they hardly equate to humane provisions. What is more, all 3-tier bed frames contain 4 x 8" slots or pockets within the steel grating; that if a man of average height would stand atop it, his entire foot would immediately fall through. Irrespective of how brief the duration of my temporary confinement at PCJ, whether a week or an overnight stay, I would always end up suffering chronic back pain after lying on a contraption that, by no stretch of the imagination could be likened to a medieval torture rack.

Rodent and Insect Infestation

PCJ has a major problem with mice and roach infestation. Unfortunately, the need for extermination does not appear to be an issue high on the superintendent's' list of priorities. Prison officials are aware of the threat to health posed by these conditions, but have taken no such action to eliminate or mitigate these problems. In the ten years since my initial stay at PCJ, inmates have, and are continually being forced to live in absolute squalor; which exposes them to a variety of parasitic infections like scabies, lice, ring worm and crabs, as well as skin diseases like MRSA and impetigo. This filth contributes to the obvious infestation problem. On a personal note, I had to pluck two small roaches out of my lunch tray when I was transported there last year." —R. B, Passaic County Jail, Paterson, NJ, 2013

"I have to beg for water and food. We are being killed slowly. If you were to come here you would find us in this "dry cell" naked, cold, and hungry. We are being cut off from all avenues of recourse. I was removed from special needs and placed here. Please can you get somebody, anybody to get us out of these torture chambers? We are doing nothing wrong and have no intention of doing so. I'm having serious problems with the staff and administration here. I'm getting threatened to be physically assaulted by staff as well as other inmates, I don't eat much

either, this started after I filed my lawsuit. I don't feel safe, I don't eat or sleep, nothing. The staff wants me to withdraw my complaint. They won't even give me paper to write on any more. It's two other people on this unit scared for their lives due to staff misconduct and misinformation. They will kill us." – *W.T., New Jersey State Prison, Trenton, NJ, 2014*

"... Often times the sink water runs 24 hours. There are leaks from the ceiling and flooding from the floor on the lower tiers. In the summer the heat is felt due to the lack of air flow. In some cells this causes a strong odor like a moldy type and it's difficult to breathe. In the winter it's freezing, it's like sleeping outside. No heat and the windows are open for a majority of the season. . . At this point prisoners don't realize that there is a high level of carbon in the air and complain about headaches, fatigue, and are often exhausted and spend their days sleeping. . . The water in the cells is awful and if you take a piece of white clothes and place it on top of the running water, it turns the whole piece brownish/orange. . . The toilets are a hole in the wall and you can always smell the waste in the bottom. Sometimes when you go and drink the water you can smell the sewage . . . but the toilets are awful and odorous especially because you have to eat and sleep in it. After a while you become accustomed and you smell it but what can you do but ignore it. . . Showers are every 3 days and you're lucky if you get a full 10 minute shower because once you get in your told to get out and they look for any excuse and take it away from you. . . the sheets we get are torn or have giant rust patches. The mattresses we sleep on from so many years of wear and tear have no cushion support." – *J.M., unknown, New Jersey, 2014*

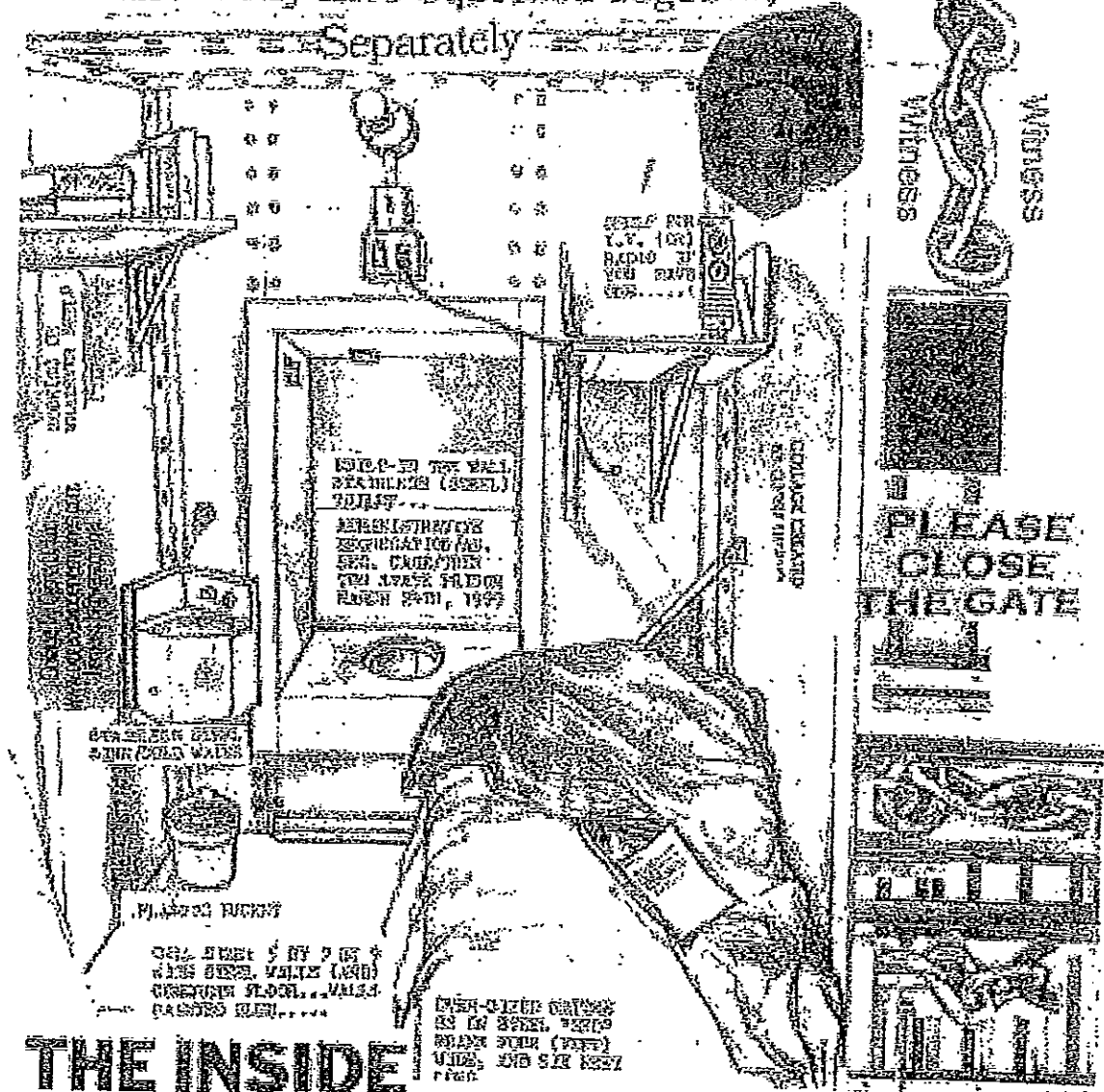
"I am writing this letter for myself and many other prisoners who are in fear for their health and just want to be treated like human beings, we are in fear of diseases for many reasons. . . We are supposed to have the right to a clean and healthy environment; but we are forced to live in cells with cracks, holes, feces, blood and other fluids imbedded in our cell walls, which draw and allow in bugs, insects, and rodents. . . The shower schedule which is supposed to be three days a week (every other day) is treated like a privilege, one which we are not privileged to get every other day because we have been told by officers that they (correctional officers) make the rules and run the facility . . . the showers on the tier are not cleaned daily and the use of bleach in them is non-existent. The laundry, when done, does not come back for days. Property is constantly lost from the laundry. The laundry comes back dirtier than when it went in, whites come back brown and smelly. . . They say we have the right to a healthy diet, yet our food is constantly served cold, under cooked, and tasteless or should I say spice less. No spices on trays, salt, pepper, butter, etc. we are not even distributed utensils regularly. I have had one disposable spoon for five months. . . This administrative were on 'notice' of our cells having bugs, and ants, bad plumbing. When it rains outside the water leaks in from the roof, which water runs down the walls from cells upstairs, it floods the floors the floors on the tiers and inside our cells which there is no mop. . . There are unbearable smells coming from the plumbing system and sink where you drink water. (note: officers bring in water from home cause they are afraid to drink water from here). . . we are forced to endure every day from the months of May until September extreme heat/hones

which there is no window's ad ventilations in our cells." – *P.B., New Jersey State Prison, Trenton, NJ 2012*

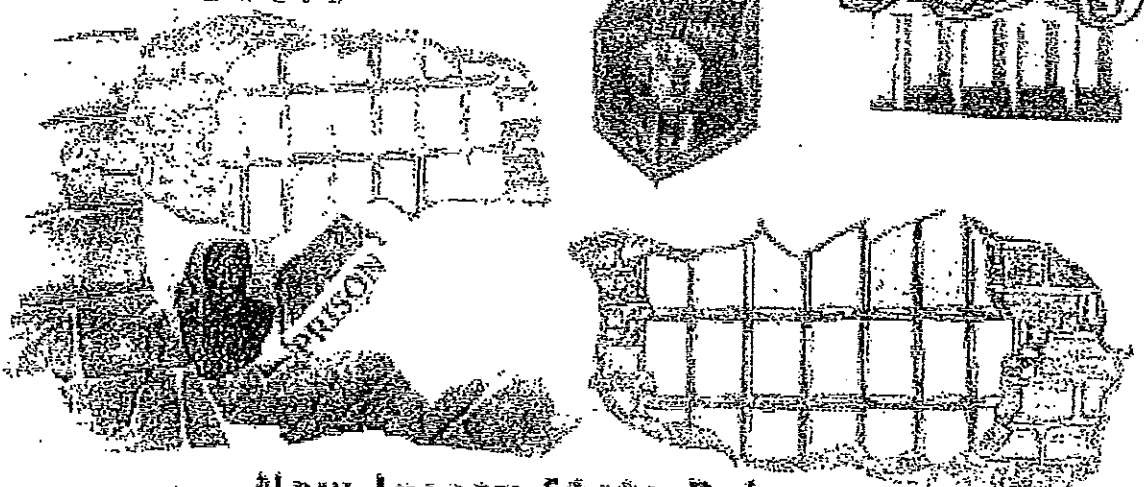
"... I couldn't shower for 15 days because New Jersey State Prison claim to have run out of soap, oh, toilet paper as well. For 24 hours a day, and every day since "July 28, 2011, I have sat in this cell depressed from being oppressed cause these people violated my rights and its nothing I can do about it. It's to the point that I'm taken prescribed medication for depression and even that isn't helping. I miss my family so much! – *S.C. New Jersey State Prison, Trenton, NJ, 2011*

"Mr. B and 4 or 5 of us were brought over to 1-Left on August 4 to more RESTRICTIVE AND UNCONSCIONABLE CONDITION, also in the West Compound. 1-10 is ACCURATE we have not received no tissue for AT LEAST 5 days and had to use RIPPED SHEETS. Did not have SOAP, toothpaste, toothbrush, towels, tissues, shower shoes (in which we took showers every 3 days). We were also denied; All phone CALLS (legal no exception), ACCESS to ALL PROPERTY (legal mail included), visits, PEN, PAPER, books, Remedies. So we were UNABLE to RESORT to D.O.C Rules and exhaust ALL Remedies. Also mail takes longer AND LACK OF Religious Volunteers were usually ABLE to see. I was also brought to legal visits cuffed. I was placed on 1-LEFT RIGHT, where the plastic is placed on the bar and felt like I was going to fall out AT ANYTIME WAS denied ice in the process *EVEN though it was a heat wave.*" – *W.W., New Jersey State Prison, Trenton, NJ, 2011*

How They Live Squeezed Together, Separately



THE INSIDE STORY.



New Jersey State Prison
Trenton, NJ

IV. HEALTH & MEDICAL SERVICES & CONDITIONS

Universal Declaration of Human Rights

Article 3

- Everyone has the right to life, liberty, and security of person.

International Covenant on Civil and Political Rights

Article 6

- Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, international political instability or any other public policy emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 16

4. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman, or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

TESTIMONIES

"I write this letter in hoping that you can help me. In 2006, the prison was put in lock down and the administration gave an order that during the lock down, no inmates can be let out of their cells for any reasons. Not the lockdown was about three weeks and I came down with something call Cellulitis, a bacterial infection of the skin which if left untreated may cause septicemia, a potentially fatal condition. Now I was sick with cellulitis in my foot and for three weeks I was trying to get to the prison hospital. And after three weeks, the condition had got so bad. The prison call 911 and I was taken to St. Francis hospital where I stayed for seven days with one day in the ICU. I was sent to the emergency room. I had an inmate filed a civil action for deliberate indifference and I need help!" – *K. B., Trenton State Prison, Trenton, NJ 2010*

"I am a resident here at the Special Treatment Unit. It is to my understanding that you would like to receive letters from residents describing either violations that they had seen over the years, and /or violations they have experience here at the Special Treatment unit. The below is a one of those violations:

Issue #1: Handicap residents (those of who walk with a cane, walker, and / or are confined to a wheelchair) at the New Jersey's Special Treatment Unit and its Annex here in Avenel, New Jersey. Due to circumstances out of their control, they are unable to work to put any funds in their account at this facility. It is with understanding that even though a individual residents is handicap, and are put on a medical lay-in, they still get paid by the administration to whom are housing such individuals. Handicap residents here are not getting such funds from this administration. These residents are unable to buy anything to support themselves in anyway. They are unable to even buy hygiene, toiletries, outside food, clothes and other type of products for themselves." – *J. B, Special Treatment Unit, Avenel, NJ, 2011*

"... I am a man of 'Great Pain', 3rd degree burns to my hand. I must sleep with my hand raised to slow the 'pain'. The pain meds does nothing when the water is too cold it stops the flow of blood, when to hot it blisters. I was denied the medical glove that protects it. I have no job, no money, I cannot use the phone because I have no money to but on the phone." – *R.B, New Jersey, 2014*

The following is a testimony written by a Public Defender. "... Mr. K also states that when he was being processed for his transfer from Bayside State Prison back to South Woods State Prison, he was "kick and stomp on" on the same knee where he had his operation. He states that as a result of this incident, he is now wheel-chair bound and unable to walk. Mr. K requests an operation on his knees which he believes is necessary to enable him to walk again. He states that he has submitted 7 medical slips without a response." – *M.K, New Jersey State Prison, Trenton, NJ, 2014*

V. MENTAL ILLNESS

One of the consequences of the deinstitutionalization of the large state psychiatric hospitals has been an increase in the number of people with mental illness in the prison system. Because the prison environment is not designed to safely care for or treat such people, and prison personnel are not trained to respond effectively to their conduct or symptoms, this increasing sector of the prison population does not "adjust" well to prison life. Specifically, their conduct increases the likelihood that they will be placed in isolation, for protection or as punishment.

This much is known about the relationship between isolation and mental illness:

1. Long term isolation is characterized as torture, precisely because it can cause unnecessary trauma.
2. Symptoms of such trauma may include present distress, and symptoms associated with mental illness and even psychosis, such as depression, anxiety, fear, paranoia, and hallucinations; physiological and neurological damage may accompany these psychological symptoms.
3. As with other manifestations of trauma, now acknowledged as a "mental disorder," PTSD - Post Traumatic Stress Disorder, such symptoms may persist beyond the duration of the triggering event or environment; for people in prison, this means increasing problems with "institutional adjustment," family relationships, reentry, the ability to work and, eventually, recidivism.
4. The appearance of mental illness is affected by multiple factors, including individual risk factors and external environmental factors. Therefore:
 - a) People who might not otherwise graduate to symptomatic mental illness may do so, in the toxic environment of isolation; and
 - b) Isolation exacerbates the symptoms and suffering of prisoners with a history of mental illness or present symptoms.

Therefore, prisoners along a spectrum of general mental health to acute mental illness may be seriously adversely affected by the experience of isolation; their conditions and suffering influenced by the toxicity of the general prison environment and the significant deficiencies in prison mental health care.

Because of these connections between mental illness and institutional isolation, state law in New Jersey has long placed strict restrictions on the use of isolation in the state psychiatric hospitals. Unfortunately, despite extensive litigation, the case is very different in the prisons.

To prisoners facing isolation are cursory, and prisoners with known histories of psychiatric illness, or even psychiatric hospitalization and self-harm or suicidality, are all too frequently subject to long terms of isolation. They report cursory clinical reviews, non-confidential "cell door" interviews, poor monitoring of psychotropic medication, repeated indifference to glaring

suffering and symptoms of illness, and humiliation and abuse on the part of untrained and unsupported prison employees.

The following testimonies provide only a brief introduction to this world of pain and torture.

TESTIMONIES

“One night I was lying in Cell 1 of the Boom Boom Room. One prisoner, cried out that he was cold. He cried out for a blanket because as the night went on it got progressively colder. They gave him none. This was a normal occurrence. The way he got in there was by sneaking a razor in between his buttocks. Upon being stripped and searched, it was found. He threatened to castrate himself, so they placed him in the Boom Boom Room naked, in restraints. They put him on psychotropic meds and it was business as usual . . . When a prisoner was on suicide watch, they would put them in a special gown with straps and place them in an empty cell. They would check on them every 45 minutes . . . The unit was usually quiet because the prisoners were overwhelmed by the psychotropic meds they were taking. The doctors would come around and ask prisoners if they were okay and if the meds were working and if they needed higher doses. After that they’d be on their way. . . After 16 years, I was released back into General Population by way of a court order, and they placed me in a special needs unit. There were 48 cells and 42-43 were receiving psychotropic drugs.” “Prisoners who were on psychotropic drugs-I could see how they began to deteriorate because they would start to neglect their hygiene, start to smack their lips, and jerk involuntarily. They would also shuffle their feet and their hands would lock up. There was nobody for me to really talk to because most people were on psychotropic drugs. Guards would place roaches in prisoners’ food”. - *Ojore Lutalo’s accounts of what he witnessed at NJ State Prison, 2015*

“I am reminded of mentally ill Frank in New Jersey, who was forced into an isolation unit. The guards taunted and teased this man, made him dance as he begged them for cigarettes, water or food while they laughed. Frank killed himself.” - *As told by Bonnie Kerness, explaining reports received in 2009*

“In New Jersey I’ve received reports of the use of something called the ‘chicken suit’, where the mentally ill are forced to wear clear plastic suits during their stay in the Special Needs Unit in a county facility. In essence they spend their days naked.” - *Anonymously told to Bonnie Kerness, 2009*

“ . . . I’m diagnosed with severe anxiety issues were I pick at my feet till they bleed. Every doctor in this prison knows this. By the third week, I couldn’t take it. I was peeling whole toe nails off! Blood everywhere. I started cutting out skin on my foot. It was getting worse. They

called the psych over. I was put on constant watch. However, since custody had already told the guards in lock up to not move me under no circumstances, they put me in a dry cell with no water, no sink, just a whole." — Anonymous, New Jersey, 2012

NEW JERSEY STATE PRISON

SPECIAL NEEDS UNIT

(Resisting) The Drug Therapy Chair # 1-EE

Psychological wounds


THE TWO (2) FORCED MEDICATION CHAIRS ARE LOCATED IN A ROOM IN ONE OF THE PRISON'S "SPECIAL NEEDS UNITS" CALLED 41-EE WHICH IS LOCATED IN THE SOUTH COMPOUND SECTION OF THE PRISON NEXT TO TREMONT ST. THE CHAIRS ARE SITUATED SIDE-BY-SIDE. THE CHAIR IS DESIGNED TO RESTRAIN A PRISONER(S) FROM BEING ABLE TO MOVE HIS OR HER ARMS, LEGS OR MID-SECTION OF THEIR BODIES.

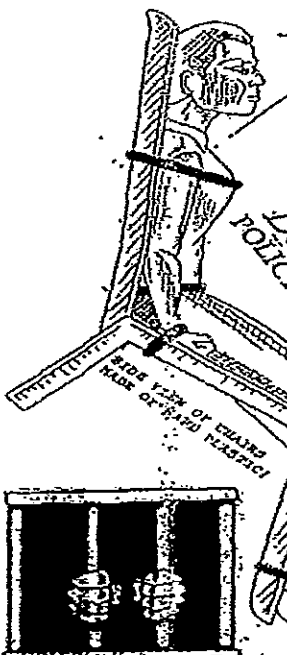
A PRISONER(S) IS PLACED IN THE CHAIR TO BE FORCED MEDICATED. THEY IN THE CHAIRS WITH VIBRO STRAPS. THEY ARE TO BE SECURED IN THOSE CHAIRS WITH HANDCUFFS. SOME PRISONER(S) HAVE A SHEET, BLACK WELD MET PLACED OVER THEIR HEAD AND FACE. IN SOME CASES A CAG MASH OF KNIFE CLOYS IS PLACED OVER THE PRISONER'S MOUTH UNDERNEATH THE BLACK HEAD BAY TO PREVENT THE PRISONER(S) FROM SPITTING - OR VERBAL ABUSE OR HER PROTECT OVER BEING FORCED MEDICATED!

ONCE A PRISONER(S) IS SECURED IN THE CHAIR, A NURSE INJECT THE PRISONER WITH SOME KIND OF PSYCHOTROPIC DRUG INTRAVENOUSLY. THE ATTENDING NURSE IS SUPPOSE TO TEST THE PRISONER'S BREATHE RATE AND BLOOD PRESSURE EVERY FIFTEEN (15) OR TWENTY (20) MINUTES IN THE EVENT THE PRISONER(S) MIGHT POSSIBLY GO INTO CARDIAC ARREST FROM THE FORCED INJECTION OF THE PSYCHOTROPIC DRUG.

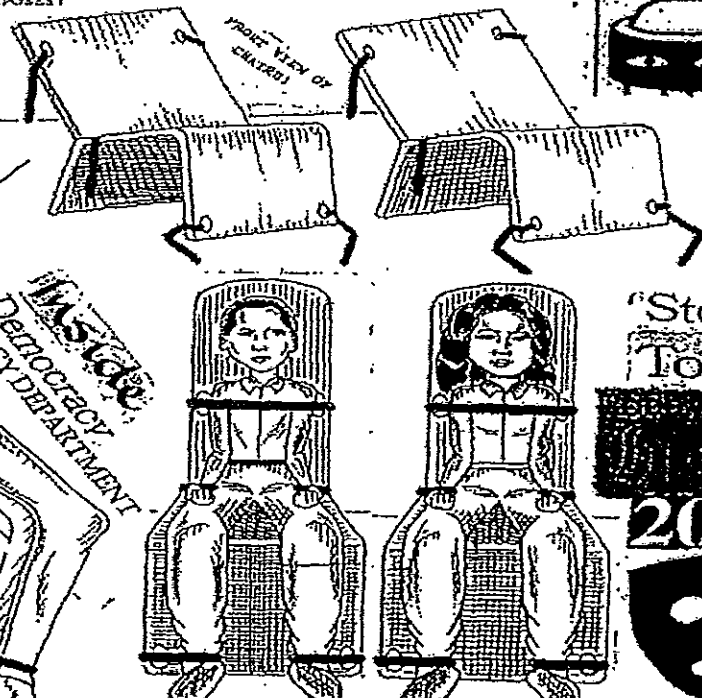
THE PRISONER(S) IS KEPT IN THE CHAIR FOR A MINIMUM OF FOUR (4) TO EIGHT (8) HOURS AFTER THE PRISONER(S) IS REMOVED FROM THE CHAIR, HE OR SHE ARE STRIPPED NAKED AND GIVEN A QUARTER SHOWER, AND PLACED IN A COLD CELL WITH NOTHING BUT A FILTHY PIECE OF FOAM FOR SLEEPING PURPOSES!

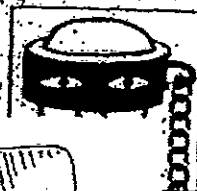
Tortured Bodies:






MASTERS OF Deceit Democracy POLICY DEPARTMENT





Stop the Torture

2002



Lawmakers

AMERICAN HISTORY & POLITICS

45

VI. USE OF FORCE & DEVICES OF TORTURE

Article 1 of the UN Convention against Torture (CAT) prohibits policies and practices that “constitute cruel, inhuman and degrading punishment.” The UN Human Rights Committee, the UN Special Rapporteur on Torture, the UN Special Rapporteur on Violence against Women, and the UN Committee on Torture have all cited the United States prison conditions as violations with international standards, particularly the CAT, which states:

1. Each state party shall take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. [CAT, Article 2C]

Article 4:

1. Each State Party shall ensure that all acts of torture are offenses under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

Article 10:

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention, or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11:

Each State Party Shall keep under systematic review interrogation rules, instructions, methods and practices as well as arraignments for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 13:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken that the complainant and witnesses are protected against ill-treatment or intimidation as a consequence of his complaint or any evidence given.

TESTIMONIES

“. . . It's not just the conditions of the prison or lack of programs and proper medical attention. It's also the way we are treated by the guards and staff. We have to walk through a gantlet of guards who are wearing helmets and swinging and banging their night sticks in a threatening manner as we go to and from chow, or any movement. They talk to us like we were dogs, cursing at us, threatening us, it's insane! Prisoners are being beaten! When they pull you over for a pat down, they manhandle you, slapping your sides, grabbing your leg and giving it a quick yank, and what not doing their best to get us to say something.”-R. K, *New Jersey State Prison, Trenton, NJ 2008*

The following was an excerpt released by the New Jersey Star Ledger: A former Sussex County jail inmate has filed a lawsuit against seven corrections officers, saying they beat him twice – once in a cold shower while he was shackled and restrained him for 19 hours in a chair known as the “happy chair”. The alleged attack on R., 27, formerly of Sussex Borough, occurred Oct. 4 after N. saw another inmate in the restraint chair and tried to talk to him, according to the lawsuit filed by N's attorney, J. P., in U.S. District Court in Newark. The ‘defendants’ unlawful and inappropriate use of the restraint chair on plaintiff was solely for the purpose of punishment and intimidation,” in violation of its permitted use, according to the lawsuit. “This was an instance of torture,” said P., a veteran civil rights activist who has filed an array of lawsuits on behalf of inmates at the county jail. Sheriff M. who said he had not yet seen the lawsuit and could not comment on its specifics, said the restraint chair is not used to punish inmates. “The chair is used for his (an inmate’s) protection of for the protection of other nearby inmates and guards,” said S.; who took office Jan. 1. After N. talked to the inmate, seven officers maced N., put him in restraints, beat him in a cold shower, then strapped him for 19 hours in the chair, “affectionately known as the ‘happy chair’ among corrections staff,” the lawsuit states. – *Story written by Joe Moszczynski, February 10, 2011, nj.com*

VII. CRUEL & DEGRADING TREATMENT / ABUSE BY PRISON PERSONNEL

Basic Principles for the Treatment of Prisoners

Principle 1

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Principle 1

All person under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

International Covenant on Civil and Political Rights (CCPR)

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the dignity of the human person.
3. The penitentiary system shall comprise treatment of prisoners the essential of which shall be their reformation and social rehabilitation.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

TESTIMONIES

"I'm having very serious problems with the staff, and administration here. I'm getting threatened to be physically assaulted by staff as well as other inmates, I don't eat much either. This started after I sent out my lawsuit, I don't feel safe, I don't sleep, eat or nothing. They (staff) are trying to intimidate me by using threats of bodily harm to get me to withdraw my complaint. They also put false information out there about me; which can possibly get me killed in here. As you see they won't even give me writing paper no more. I wrote the division of operations twice, but to no avail. I wrote Jean Ross, no response, I have wrote everybody under the sun nothing; I'm not the only guy on this unit that is going through this treatment its two more people on this unit

that's scared for their lives .due to the staff putting out false info on them everybody in their prison has (life) we are not from this jail. They'll kill us and that's it something needs to be done, this is not right. I need your Help!!!!!!" –*W. T, Northern State Prison, Trenton, NJ, 2013*

"This happened in November 2011. I was shipped out and I was actually threatened with street charges. S.I.D. did not file charges. S/C over 50 prisoners witnessed the brutal attack I endured, I was BRUTALIZED!!! I documented everything. I am totally aware of the power of the pen. I have amassed an extensive file on the D.O.C. During this 6 month period, I suffered numerous anxiety attacks- due to the long term torturous isolation. I had to be placed on an anti-anxiety medication. . . Shockingly, the D.O.C. hasn't changed! I was beat in Northern State Prison, then shipped to Trenton. The officer who attacked me had a hearing- I learned nothing was done." – *J. W, Northern State Prison, Trenton, NJ, 2013*

"I am writing this letter to include the details that took place during my stay in Bayside State Prison. I was shipped to B.S.P. in September of 2010, upon entering the prison that day I witnessed a prisoner being beat while in handcuffs in the intake area. Once I was in B-Unit I was verbally threatened simply because I was black or because I had dreadlocks. It is almost impossible to report these incidents when you ask for a grievance or remedy form you are targeted relentlessly. I've been choked while being surrounded by several officers. I was not allowed to eat the dinner meal because C.O.'s would claim they don't want to see my stupid face. On the compound there is a red line called the "Baker Line". If you step a foot on this line or cross this line you will be beat or if lucky, subjected to gathering every pebble, rock and stone in an appointed area. . . At this time there was an African American administrator Ms. D. She would try to reach out to the inmates that were being assaulted and threatened but the fear of being killed was very real. If you put in a remedy/grievance at that time your mail was monitored outgoing and incoming. It was no secret that the helicopter would airlift someone to the hospital at least once a week due to the severe beatings. In 2011 I personally was involved in an incident where an officer assaulted an inmate on the walk way in the blind spot. I helped escort the inmate back to his housing area which happened to be the same unit I was housed in. Once everyone saw the bruises and knots on the inmate we decided to have a hunger strike to put a stop to the violence, beatings, threats and harassment. During the first night of this hunger strike C.O.s came into trailer four hurling threats and racist remarks saying they would kill us one by one, they ran the prison not the administrator (Ms. D). Once they realized that we were not giving in all 96 inmates were locked in on that side of the trailer. . . It was our constitutional rights being violated on a daily basis and no one did anything to stop it. Inmates were beaten to death, inmates were refused medical treatment because the medical staff were a part of the problem, C.O/s.would violate federal laws and open an inmate's mail without the permission of the administrator, take inmates personal family photos and make sexual comments about inmate's children, wives, mothers, daughters even keeping photos or an inmate's family or friends. Sometimes visits were not called out on time because the unit C.O.s did not want to get up from watching T.V. Female C.O.s would lie on inmates and say an inmate pulled out his

penis, grabbed his crotch area or made sexual advances at them. Then they would laugh while that inmate was beat viciously. C.Os come and trash your cell, your personal property, take item's from you and give them to other inmates. All of this was what lead to a hunger strike in 2011 on trailer 4.C.Os. Surrounded the unit day in and day out like a militia ready to attack. They never even notified the administrator Ms. D. they notified the assistant administrator, a white guy, which came into the trailer at 12am drunk with a distinct alcohol odor to his body. He was yelling at us, calling us dumb ass nigers for not eating. We asked to speak to his superior and he replied "that bitch doesn't run this facility I do, now do as I said and listen to these officers." – *M.S, South Woods State Prison, Bridgeton, NJ, 2014*

"They offer a yard every 2-3 days and that is for about 2 hours and you go by yourself I a caged in area no larger than a large dog pen without any ability to walk or get proper exercise. . . I witnessed firsthand a female officer having sex with inmate J. in the control booth on my previous unit. . . she still works here, and has inappropriate relations with inmates still." – *J. M, New Jersey State Prison, Trenton, NJ 2014*

"This sergeant put his hands on me and told me why did I make false accusations on him while he was beating me in the back and chocking me." – *K. P, Northern State Prison, Newark, NJ 2014*

"These people (I say people because what go on in prison is bigger than just officers) treat people with dis'respect and inhumanly but they are the civilized correcting the uncivilized. I don't believe this is the way it is supposed to be. . . I have 3rd degree burns on my left hand and refuse to sign papers not putting the prison accountable. So the jumped on me mess the nerves in my burned hand up and my left ankle. I cannot stand for long periods of time. Then they locked me locked me up. And would not let me contact my family for four months and them themselves would not." – *R.B., New Jersey, unknown, 2014*

"On 1-25-2012 at 3pm me and another inmate were handcuffed, stripped searched and put in a cage while our cell was being searched by various officers all under the supervision of Sgt. A. At 6:40pm, 3-hours and 40 minutes later me and Mr. . . were approached by Sco. Grabowski while in the cage, he was holding a large brown paper bag. Grabowski said Mr.. I was ordered to confiscate your regular mail. Mr. . . asked is that all you took? Officer Grabowski said 'yes'. Myself and Mr. . . asked can we see what is in the bag, we were told 'no'. Sco. G. said either sign for the property or when were done its 'trash'. 9:00pm., 6 hours later myself ad Mr... were taken back to our cell and locked-in. Upon entering the cell I found my Qu'ran in the toilet. Mr. . . Qu'ran was ripped, our food package and canteen items were dug into with pens and combs. My regular mail, my mother's funeral pictures, legal mail, and radio was confiscated from my cell along with Mr.: regular mail, legal mail and family pictures. Which means Sco. G. and Sgt. A V.

lied about what was taken from our cell, as well as pushed Mr. .. to commit the crime of 'forgery' by signing for my property by giving him an alternative, 'either sign or its trash.'" – *W.M. East Jersey State Prison, Rahway, NJ. 2012*

"Officer D. instructed Inmate ----- to get on the wall and interlace his hands behind [sic] his head and to spread his legs. Inmate ----- complied with this order. Officer D. walks over to the slop cans and puts on his gloves. He then [sic] returns to Inmate ----- and grabbed him by his interlaced hands and attempted to slam Inmate ----- head into the wall." – *Anonymous, New Jersey, n.d.*

"On one day during 2013 I was assigned to E unit, when I arrived, Officer R. and officer Sheppard checked my property. Finding something they confiscated, I was aggressively told to put my hands on top of my head, and pulled backwards. Stressing my back, while Sheppards [sic] Knee was in the middle of my back, I was threatened and told that I would or could be beat up. The [sic] officer Sheppard asked if I was scared, when I said yes, he said you'd better be, we'll kill you down here you fucking spit. I also witnessed a inmate [sic] come from "B" unit, when he came to "E" unit, officer Sheppard made the inmate lay on the floor, whit [sic] his hands behind his head, while on the floor, officer Sheppard placed his property bag, now full of water, on his back and made him remain in that position for 2 hours. These are things they do to inmates each day on "E" unit." – *Anonymous, New Jersey, n.d.*

"On February 8th 2010 at approximately 810 am I was one of several prisoners involved in a fight within the Bayside medical waiting area, at which point a code 33 was called and upon correction officers, Sergeant and other personnel arrived the fight was then within the medical gate of medical. Upon the officers separating [sic] inmate _____, _____, and myself to my knowledge all three of us was [sic] placed in handcuffs and leg irons. At which point I was placed next to inmate _____ and then numerous officials began to strike me in the head and face area also the side of ribs and chest. They said scream. When I would not scream officer Divito who I knew by sight and voice placed his arms around my neck and head in a sleeper hold which cause [sic] me to fear for my immediate safety. He then laid me face down on the ground and jumped off a desk onto my mid to lower back which caused me to defecate on myself. Which enraged the officers. I heard them also beating inmate _____ by evidence of hearing punches land and inmate _____ screaming stop your hurling at me and all along with officers screaming stop resisting. One officer then stated you bring this gang shit to medical we are going to kill you. At which point I was then placed on my knees and told to put my chin on my chest and don't look up. My head was then placed through a wall and punches continued to be administered by police. I was then dragged around the corner by my shackles and clothes where officer N Canon then began kicking me to the sides, head, testicles, and said if you got a knife the helicopter won't get here fast enough. He then told me to look at him when I looked up he pointed to his name and said I'm doing this to you and punched me several times directly in the

face. He then dragged me into what looked like a very small kitchen with a refrigerator, microwave and coffee pot with cabinets and again told me to kneel on my knees cross my ankles and place my chin on my chest and don't look up. As I complied again punches were thrown to head, face and body area, where I was told I was going to be placed in the shower to was [sic] the feces off. I was placed in the shower in shackles and handcuffed behind my back. The water was on a level so high it burnt me and I tried to get from under the water were [sic] I was. I was told I would be beat if I did. Upon the officer being satisfied the placed me in a cell removed the handcuffs and shackles and asked me did I have a problem with being beat while 3 officers surrounded me with night sticks smacking them in their hand. I feared they intended to do me more harm so I said no I was then placed in a cell completely nude for about 45 minutes."—
Anonymous, New Jersey, n.d.

"Approximately on Dec 6, 2007 I was beaten very badly, they almost killed me there. They handcuff [sic] me punch and stomp me out like 12 officers was kicken [sic] me repeatly [sic] it felt like my ribs where [sic] about to break. They pick me off the floor and slam me on my head and busted my head open I had butterfly stiches in my forehead. They was [sic] spiting [sic] on me calling me nigga's, slamming [sic] my head against the walls and using my head to open up door's [sic], raming [sic] my head into the door. I was throwing up blood for a couple of days, they was [sic] coaking [sic] me, tryen [sic] to break my legz, twisten [sic] my ankles, both of my ankles looked like I had water balloons on them real swelling. After the nurse cleaned my blood off me and put the butterfly stiches [sic] in my forehead they beat me up all over again and rebusted my butterfly sticthes [sic] open. IA cover up for them I had a tee shirt with alot of blood and boot prints on it, I told IA about, I thought they was gone help me [sic]. But the lady asked where's it at, I said it's in my detention cell, they had shipped me to southen [sic] state the next moring [sic] for like a week then to hear SWSP so when I took a shower the officer at SWSP in detention search my cell and took my bloody [sic] shirt. They did not give me the proper medical attention. I was in so much pain all they gave me was motren [sic]. I had to sleep sitting on the bed leaning on the wall for 4 months cause [sic] I couldn't lay down cause my back wouldn't allow me to. I still have back pains now I can't play basketball no more, or workout as hard as I used to because of this sharp pain I have in my back and I get mind grains [sic] on a reuglar [sic] basic a lot of people tell me to go get my head check out [sic] cause [sic] out of nowhere I get head pains, sometimes I have to lay down for two or three days in a row becasse the headce [sic] does not go away right way. They messed with me mentally as well, I always be dreaming about that ass whopping [sic] they gave me (pardon my french) I dream about that. I wake up with cold sweats and all they mess me up mentally and phycicilly [sic] and then had the nerv [sic] to send me to trenton adseg for 515 days for them beating on me. Lieing maken [sic] false charges towards me. They gave me double Jeopardy and I didn't do nothing wrong. I suffered and still suffering from going to Bayside prison. It's more things they done to me. I'll share with a lawyer or someone who will come hear me out for this Bayside state prsion [sic] situation. (thanks)

P.S. I'm in fear of my life for given up this info it might be some retaliation towards me they might have some boyz down here, just given [sic] yall [sic] a heads up." – *Anonymous, New Jersey, n.d.*

"In the 3 months I've been here at BSP I have seen officers assault and beat at least 100 people." – *Anonymous, New Jersey, n.d.*

"As a prisoners rights advocate, I have never in my 25 years of confinement, witnessed oppression or the overwhelming power of fear as I have at this facility. I have likewise never witnessed the "abuse of authority" on levels which occur at this facility." – *Anonymous, New Jersey, n.d.*

"When conducting cell searches, staff intentionally destroy inmate property, have been known to dump ice into inmate floor lockers containing legal documents and other personal property, and plant pills, drugs or other contraband." – *Anonymous, New Jersey, n.d.*

"I was savagely assaulted on 7-18-14 by guards at the Bayside State Prison while being referred to as a "nigger . . . While in the A-unit dayroom, I was instructed by Senior Corrections Officer ("SCO") M. T to place my arms out to the side and I immediately complied. Then, without cause or provocation, SCO Tamagni began ramming my head against the wall and then tackled me to the ground on the concrete landing platform outside the entrance to the A-unit. AT this time he punched me twice--once in the nose, causing a severe nose bleed [sic], and once in the right eye, causing swelling, discoloration, and impairment of vision. Handcuffs were then placed on my wrists behind my back. While laid on my stomach in restraints, SCO R. Rosell kicked me between the legs in the groin and called me "nigger." When I yelled out in agony SCO T. T stated "shut up, nigger," and stomped on my head, causing me to go unconscious." – *Anonymous, Bayside State Prison, Leesburg, New Jersey, n.d.*

"Both myself and my cellmate were escorted out of the cell, patted down and advised to proceed to the dayroom. Suddenly, approximate [sic] five or more officers entered the unit with a sergeant. My cellmate and I were thereafter handcuffed and made to sit at separate tables facing away from one another. While in this position, I heard comments referring to us niggers and spics. Suddenly, S. and one of the other officers, walked over to me, grabbed me by the arm and escorted me into the unit pantry. There, all of the other officers waited. Once inside, the sergeant stated "I hear you two motherfuckers were smoking inside your cell?" He then grabbed me by the throat and slammed me into the wall. While looking my eyes, he stated, "you must be new here, don't you know what we do to motherfuckers here?" When the sergeant released my throat, S. slammed me to the floor where I was stomped, kicked and punched throughout the body. After my beating, which seemed to have lasted several minutes, I was picked up from the floor

and returned to the dayroom. The officers then went and took my cellmate into the same pantry. I however do not know what they did, as I could not actually see and was forced to remain facing the wall. I did hear a commotion, which lead me to believe that he was also assaulted. Slightly turning my head, I was told "if you move your fucking head again, I'm punch you in your goddamned face!" As he walked by, I looked at the officer making the statement, who took it as me moving my head, and was punched in the face.

Shortly thereafter, I was pulled from the seat, had the handcuffs lifted, which were cuffed behind my back and escorted off the unit. During the walk to detention, my arms were twisted backwards and I was nearly lifted off the ground. The pain was unbearable and I felt that they were going to break my arms. Prior to detention placement, I/M's are interviewed by a nurse. However, because my handcuffs were so tight, my circulation had been cut off, hands were turning colors and the nurse could not get a pulse. She asked staff to remove the cuffs and went to the computer to pull my records. When she left, S. who is 250 plus pound, stood on my foot, I was in shower shoes, asking me if it hurt. The pain was unbearable. I was escorted into a detention cell, received no charge, and offered no phone call or shower for seven days. After the seventh day, I was released to population and sent to "B Unit." – *Anonymous, New Jersey, n.d.*

"... If I sent back their [sic] is a strong possibility that I will be beating up [sic] by the officers for writing them up, or killed . . . Now, after I was told I was going back to Bayside I called the Ombudsman and told them that I fear for my life and if I sent [sic] back to that prison it's a strong possibility that I will be beating [sic] up by the officer's [sic] for writing up sergeant A. Smith SCO Ms. D and SCO B. ... Several officers came to the cell and told me to back away from the door then the door was open [sic]. I was standing but the bed with my hands on the it [sic] the officer's [sic] came into the cell SCO S. came on one side of me and SCO D. came on the other side of me and SCO S. was in the back of me one of the officer's [sic] said you like to write officer's [sic] up then She pulled my dreads and R. punched me in the face then S. punched me in the face knockin [sic] me to the floor then S. was kicking me S. then rammed has [sic] knee into my rib several time's [sic] trying to break them then the sergeant that was their [sic] told D. R. to knock me in the eye with his flashlight and try to pop it out I tryed [sic] to cover up but he was still able to hit me with that flashlight in my eye and that hit had me dizzy while on the floor one of the officer's [sic] had has [sic] knee pent [sic] in my neck punching on me then S. grib [sic] my ankle up in the air twisting it trying to break it then they pulled me out of the cell and had me walk on my ankle at first I couldn't then I was too [sic] if I didn't walk right I was gonna get beat up again. I walked to the Day room and was told to set down [sic] at the table and D. R. came up to me smackin [sic] me in the face like I couldn't block it because my hands was [sic] in handcuffs. I was then taken to medical and the nurse asked me what happen [sic] to my eye and I told her I fell off the bed because I was scared that if I told her the officer's [sic] it I would get beat up again. But to back up before I came out the cell the officer's [sic] put the cuffs on me while laying [sic] on the floor they told me to get up I tryed [sic] but couldn't with my hands cuffed behind my back so Shelton took my dread into his hand and tryed [sic] to pull me

to my feet, but it didn't work so S. and R. pull [sic] me to my feet." — *Anonymous, New Jersey, n.d.*

"My stay in bayside state prison has been the worst experience I've ever had to deal with. I've been incarcerated [sic] going on 7 years in Sept. The last month of me being at that prison I've experience [sic] the C.O. humiliate me calling me spic & other inmates niggas [sic]. The way they talk is disrespectful and uncalled for. While being house on F-unit I personally saw a female officer by the name of Mrs. Z. and another C.O. called P. D. smack a inmate and provoke him. At the time he defended his self [sic] a bunch of C.O. came in beat on him handcuff him. Drag him out the door push him down the steps [sic] while handcuff [sic] pull his pants down and strip him naked in 9 degree weather. That was unbelievable [sic] because I've never saw something like that my whole life. I personally don't want to go back there and be degraded and humiliated [sic] or even hurt. The sad part is I've experience [sic] all this in a month or so between Dec. 19, 2013 and Jan 30, 2013..." — *Anonymous, New Jersey, n.d.*

"Two officers (whom I can name but won't at this point) retrieved an empty tray and had cell 113 opened. One officer proceeded to throw the empty tray at inmate (redacted). Inmate (redacted) kicked the tray back out of his room. Then the officer proceeded to go into cell 113 and attempted to manhandle inmate (redacted). Inmate (redacted) fought back and dazed the officer, knocking him down. The other officer took off running and called for backup. Inmate (redacted) took no further action against the dazed officer. Seconds later an innumerable amount of officers rushed into C-unit, ran down to cell 113 and proceeded to completely demolish inmate [sic] (redacted). Shortly after the first wave of officers came a second wave of officers dressed in full riot-gear arrived. They proceeded to take a turn savagely beating and continually macing [sic] the already handcuffed and subdued inmate (redacted). Eventually they drag [sic] inmate (redacted)'s lifeless-looking body off of the tier, leaving behind an extremely [sic] bloody mess. . . I was told about another incident that took place about two weeks prior to the incident involving inmate (redacted). Apparently the officers on B-unit beat up an elderly inmate and drug [sic] him out of the unit and across the compound half-naked. This inmate also received the all to [sic] common helicopter ride to St. Francis Hospital. Civilian members of the staff whispered to various inmates that the old man died. Although some of the civilians seemed disgusted, I can only assume that job security and fear prevent them from speaking up. After all, we are only a bunch of criminals who deserve to be 'punished', right?" — *Anonymous, New Jersey, n.d.*

"I was told by officer green on (f unit) that if I made the mistake of coming out of the shower without my shirt on, I would be beaten to the body in the back kitchen area. That's where most body beatings take place. . . They have officers that stand guard at the remedy box at center, it is sometimes impossible to submit an [sic] grievance or risk a beating. . . The heat index in that

cell was over 100. It was the first time I thought I was going to die in jail. . . I served 14 year in 3 federal penitentiaries [...] they are nothing compared to the brutality and pure disregard [sic] for human being blk or white [sic]. In 6 months at Bayside, I witnessed over 13 beatings by staff. Even the woman officers join in. . . I spent 6 months of fear! At bayside and i just thank god for coming to northern state [sic] . . . Every staff member there should be fired because they all knew or witness the violations. Clearly 8th amendment. Including the entire medical department.” – *Anonymous, New Jersey, n.d.*

“I am currently being held in the detention unit here in this prison. I was given 30 days detention after receiving three disciplinary charges after defending myself from an attack by an inmate here in this prison who was acting on behalf of correctional officers. The attack and following struggle left me in the prison infirmary for five days. At the time of the attack, I was on a tier in the administrative segregation unit and I was returning to my assigned cell after being let out of the shower by a COR F. This C.O. however left inmate . . . Cell door open so that he could attack me. This is their third time attempting to have an inmate in this prison assault me. After not getting the results they wanted the second time they C.O.s took it upon themselves to attack me as a result of that confrontation I was given 4 years ad. Seg. In 2009 and transferred to the ad. Seg. Unit at East Jersey State Prison but when that unit closed I was sent back here in March of 2010. Almost immediately upon arriving back here I began to be harassed and it continued to escalate until they attempted to have me assaulted. *L.M. New Jersey State Prison, Trenton, NJ, 2011*

“ . . . on July 28, 2011, officers ran in my cell, I was maced and assaulted by these officers. When I told S.I.D. about this incident he laughed and said he hadn't seen any report on it and that I should 'take it on the chin', cause without any proof, it will go no where. However, if that's the case, why am I in a detention unit without any charges being subject to cruel and unusual punishment for an unfounded allegation????”- *S.C., New Jersey State Prison, Trenton, NJ, 2011*

VIII. RACISM / DISCRIMINATION

From the UN Declaration on the Elimination of All Forms of Racial Discrimination:

Article 1: Discrimination between human beings on the ground of race, color or ethnic origin is an offense to human dignity and shall be condemned as denial of the principles of the Charter of the United Nations as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights . . .

Article 2: No State institution, group or individual shall make any discrimination whatsoever in matters of human rights and fundamental freedoms in the treatment of person, groups of persons or institutions on the ground of race, color, or ethnic origin.

Universal Declaration of Human Rights

Article 2:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation or sovereignty.

Article 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.

Article 27:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

International Convention on the Elimination of all Forms of Racial Discrimination (CERD)

Article 2

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- a. Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation. . .

Article 5

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law . . .

- a. The right to equal treatment before the tribunals and all other organs administering justice;
- b. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

Basic Principles for the Treatment of Prisoners

Principle 2

There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin.

TESTIMONIES

Discrimination

"I am a transgender and I have been living as a woman since I was 13 years old. I have been going through discrimination and harassment, I been verbally and mentally, emotionally abuse, for a little more than 6 years. Name call, like fag, pig, disgusting and other names that will not be appropriate to say. . . I can't receive photo of myself because the warden and the mail office say that is inappropriate because I'm dress like a woman. I am constantly put in segregation because of my gender. I been told not to walk around the courtyard because I walk like a woman. That my provocative behavior will bring me problem in this facility. I am mentally depressed, I been humiliated and bully." – *J. M., unknown, NJ*

Racism

"I am still in lock up here. I am in the same clothes. I have not been able to call my family, shower, for over three days. No property, no canteen, nothing. There is a list they go by and I am not on that list yet I am being moved from room to room by this cop over her named. . . , he have threw (sic) out my things each time. He told cops that I assault women CO's, which I don't. This cop is putting my life I danger. Today I went for an x-ray and once more he moved me. I was moved this time into a condemn (sic) room, no water, nothing. My last room my light was out. He does something to have me moved. I am on too much meds to do this. I don't feel safe around this cop. I don't want PC (Protective Custody), but something needs to be done. I see this cop

The State of PREA in New Jersey from the Perspective of NJCASA

Good morning and thank you, Chairwoman Greenstein, and members of the Committee for giving me an opportunity to speak with you today.

I would first like to say thank you to the inmates who have been brave to share their stories here today. To them I say- we applaud your courage and we believe you.

My name is Jyoti Venketraman and I am the Capacity Building Manager at the New Jersey Coalition Against Sexual Assault - NJCASA. NJCASA is the statewide organization that represents New Jersey's twenty-one county-based rape crisis centers plus the Office for Violence Prevention and Victim Assistance at Rutgers University, New Brunswick. NJCASA exists to elevate the voice of sexual assault survivors and service providers throughout our state.

The role of our confidential sexual violence advocates, and our 21-county based rape crisis centers within the context of providing support for incarcerated survivors, mirrors the role we play in the community. This can include Sexual Assault Response Team accompaniment, emotional support, advocacy, and investigations accompaniment. As you likely know, the Prison Rape Elimination Act (PREA) encourages (does not mandate) facilities to collaborate with, or attempt to collaborate with, community-based rape crisis centers to ensure incarcerated survivors have the access to the care they deserve. Additionally, the victim services standards in PREA are the standards that technically spell out access to advocates for forensic medical exams, outside confidential support services, emergency medical services, ongoing mental health care, coordinated response planning and inmate reporting. These services are a core part of the services provided by rape crisis centers.

In 2017, for the first time we, and a few of our local programs, were contacted by the Department of Corrections, and local corrections facilities. We, and our member agencies have been asked, in a state of "audit urgency" to sign MOU's with facilities that grossly violate PREA standards and our own standards for service provision.

Over these past few months, in response to this first outreach between our programs and DOC, we have navigated challenges primarily around clarifying our role (we are not a third-party reporting agency but a confidential support service), ensuring that our advocate's confidentiality privilege is preserved even when our advocate enters a facility to

Begin by Believing

Statewide 24-Hour Sexual Violence Hotline 1-800-601-7200

provide counselling or support services, ensuring that hotline access for survivors are provided in a confidential manner (calls are not being recorded) and clarifying the role and need of an advocate during a forensic medical exam. We look forward to having these partnership conversations continue so we can collaborate systems to systems in creating safe environments everywhere.

Sexual abuse is fundamentally about establishing and maintaining power and control. This core concept, applies as much to prisons and jails as it does to the community or to any other institutional setting. While anyone can be sexually abused behind bars, some inmates are especially vulnerable to this violence. Perpetrators often target inmates who they perceive as less likely to fight back, less likely to report, and less likely to be believed if they do report. The impact of sexual abuse can be devastating and lifelong. Common trauma reactions like shock, numbness can be hard to manage within an institutional setting such as jails and prisons.

For example, incarcerated survivors may be unable to follow instructions which can lead to them being perceived as a failure to comply with orders. In most institutional settings like prisons, inmates often have no control over the most basic activities of their life. This can aggravate the sense of powerlessness for incarcerated survivors. Just as survivors in the community, survivors behind bars are much more likely to seek help if they know they can do so confidentially. Confidentiality, a bedrock of victim services, ensures survivor safety, preserves the dignity of survivors, and empowers survivors.

PREA has a range of standards designed with the overall aim of eliminating sexual abuse behind bars, increasing accountability, and ensuring incarcerated survivors get the same level of care as those in the community. **However, culture change is paramount to the success of PREA!** While today's hearing is specific to one correctional facility and its need for immediate improvement, our hope is that this conversation expands beyond just PREA and just one facility.

We have an opportunity here to improve responses across both corrections and juvenile systems through thoughtful dialogue. Safety and holding perpetrators accountable can be the shared values on which those of us who work in the anti-sexual violence movement and those who work in the correction/jail system can come together to collaborate. The hierarchical structure in institutional settings like prisons and jails can be leveraged as an advantage when such structures are backed by authentic culture change, committed leadership, strong oversight to ensure *actual* compliance, and well-trained staff.

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njcoalition

against sexual assault

3150 Brunswick Pike, Suite 300
Lawrenceville, NJ 08648-2420
Ph: 609-631-4450
www.njcasa.org

I would like to end my testimony by saying this- no one deserves to be raped. Everyone deserves to feel safe. Survivors no matter where they reside in New Jersey, deserve access to supportive care to start their journey in healing. We all can and must work towards creating safe communities everywhere. Thank you again for the opportunity to speak before you today.

Respectfully submitted on February 22, 2018 by:

Jyoti Venketrman
Capacity Building Manager
jvenketrman@njcasa.org

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lck

NJ PREA Policy:

Policy: New Jersey Department of Corrections Management Procedure # IMM.001.PSA.001 "Zero Tolerance of Prison Sexual Assault"

NJ DOC website: <http://www.state.nj.us/corrections/pages/PREA/PREA.html>

Edna Mahan Correctional Facility 2016 PREA Audit:

http://www.state.nj.us/corrections/pdf/PREA/2016/2016_PREAEMCF_REPORT.pdf

Current Case

Owens v. Ambroise et al., No. 317-cv-07159-PGS-LHG (amended complaint filed Sept. 15, 2017).

Plaintiff filed suit pursuant to § 1983 for violation of her First, Fourth, Eighth, and Fourteenth Amendment rights. Plaintiff alleges that she was sexually assaulted by Officers Ambroise and May. Upon information and belief, at least sixteen (16) other women have been assaulted by Defendants Ambroise and/or Mays and/or other EMCF officers in the past five years. Further, upon information and belief, at least five (5) EMCF officers and/or employees were fired and/or criminally indicted over the past three (3) years over claims of sexual abuse, including but not limited to Defendants Ambrose and Mays, as well as EMCF officers/employees Ahnwar Dixon, Thomas Seguire, and Joel Herscap. Notably, upon information and belief, for several years Edna Mahan falsely reported no cases of sexual abuse of inmates and/or under-reported cases of sexual abuse of inmates.

Cases

Walsh v. N.J. Dep't of Corr., No. 17-2442 (JBS-AMD), 2017 U.S. Dist. LEXIS 141519 (3rd Cir. Aug. 31, 2017). Plaintiff filed suit under § 1983 for violation of PREA. Plaintiff alleged that he reported a sexual assault to the Special Investigation Division ("SID") at Southern State Correctional Facility ("SSCF") in January 2017. He stated SID did not conduct an adequate investigation and failed to move him to a different custody level or prison after the assault as required by the Prison Rape Elimination Act ("PREA"). The Court dismissed all PREA claims but allowed Plaintiff leave to move to amend his complaint to include the claims he was attempting to assert in his May 10, 2017 letter. Plaintiff's amended complaint may not include the claims that were dismissed with prejudice by this Court under the PREA.

Matter of Colon, No. A-1726-15T4, 2017 WL 2991771 (N.J. Super. Ct. App. Div. July 14, 2017). Petitioner appealed a final administrative action from the Civil Service Commission (Commission) and a denial of reconsideration of a Department of Correction (DOC) disciplinary action against petitioner removing him from his position for using excessive force against an inmate. Petitioner worked for the DOC as a senior corrections officer at Edna Mahan Correctional Facility for Women. This case stems from a January 26, 2015 incident between petitioner and an inmate, who is a special needs inmate receiving psychiatric care. The interaction was captured on the correctional facility's security cameras from two angles. The video shows the inmate approaching the control booth twice; the second time when she began to walk away, she stopped and said something over her shoulder. Next, the video shows petitioner walking towards the inmate, who turned and continued to walk back towards the housing unit. Petitioner closed

the gap between himself and the inmate, standing inches from her. Petitioner pushed the inmate, causing the inmate to stumble, and eventually petitioner forcefully pushed her to the floor. The video shows petitioner punching the inmate while she was on the floor.

In re Coluccio, NO. A-0772-11T2, 2012 N.J. Super. Unpub. LEXIS 1883 (N.J. Aug. 6, 2012). Plaintiff appeals from a final determination of the Commissioner of Education removing him from his tenured position as a teacher with the New Jersey Department of Corrections. Coluccio was employed as a cosmetology teacher at the Department's Edna Mahan Correctional Facility for Women. On June 24, 2009, the Department filed a preliminary notice of disciplinary action, alleging that Coluccio had an improper relationship with an inmate at Edna Mahan, who was serving a six year sentence. Coluccio was charged with conduct unbecoming an employee, improper and unauthorized contact with an inmate, and sexual harassment or discrimination. The Court affirmed the Commissioner of Education's decision.

Heggenmiller v. Edna Mahan Corr. Inst., No. 04-1786, 128 Fed. Appx. 240(3rd Cir. Apr. 11, 2005). Plaintiffs alleged that a prison guard raped and sexually assaulted them between 1997 and 1999. The matter was allegedly investigated, and the guard was fired and brought up on charges. The inmates claimed that the administrators were deliberately indifferent to a serious risk of harm and failed to train the guards. While there was evidence of 10 different incidents of various sexual incidents between guards and inmates, none of the prior incidents was shown to have involved the guard who assaulted both inmates. As to the past incidents, the administrators investigated, fired, and prosecuted at least five of the six guards involved in the incidents. Thus, there was no evidence that the administrators either looked the other way or attempted to intervene on behalf of any guard. The judgment of the district court was affirmed.

Raymond v. Edna Mahan Correctional Facility, NO. 2002-2678, 2005 WL 1190413 (N.J. Adm. May 4, 2005). Appellant appeals his removal from respondent ("Edna Mahan") effective January 8, 2002 upon the determination that he had "improper or unauthorized contact with inmate-undue familiarity with inmates, parolees, their families, or friends," such contact being "conduct unbecoming an employee." The Court affirmed the respondent's removal of appellant from the position of Correction Captain.

State Of New Jersey V. Ralph W. Grier. The guard, Ralph Grier, was found guilty of second-degree official misconduct. That same jury acquitted him of three counts of sexual assault on inmates at Edna Mahan Correction Facility for Women in Union Township, where Grier worked for 20 years rising to the rank of lieutenant, according to court records. Judge Victor Ashrafi, sitting in Flemington, said that Grier took advantage of his position of authority in January 2002 and used it to develop a relationship with the victim, a female former inmate whose name is being withheld. Grier gave the inmate items such as cigarettes and candy to become friendly with her and sent her a \$30 money order and disguised it to come from a relative in exchange for allowing him to take nude photographs of her, according to court records. As part of the sentencing, Grier is also permanently barred from seeking a position in law enforcement or holding a public office.

News Articles

SP Sullivan, *N.J. likely under-reports sexual abuse behind bars, experts say*, NJ.com Jan. 28, 2017, http://www.nj.com/news/index.ssf/2017/01/nj_is_under-reporting_sexual_abuse_behind_bars_exp.html

Between 2012 and 2015, the state Department of Corrections reported just two substantiated cases of sexual assault across its 13 major institutions, housing more than 20,000 inmates. In a 2015 report, the department claimed the rate of sexual abuse in the prisons was "less than one percent."

SP Sullivan, *Women's Prison In Midst Of Sex Abuse Inquiry Needs 'Top To Bottom Review,' Lawmakers Say*, NJ.com Sept. 28, 2017, http://www.nj.com/politics/index.ssf/2017/09/lawmakers_want_top-to-bottom_review_of_womens_pris.html

A criminal inquiry at the Edna Mahan Correctional Facility has prompted a call from state lawmakers for a review of conditions at the prison.

State Sen. Loretta Weinberg and Assemblywoman Valerie Vainieri Huttle on Wednesday sent a letter to Attorney General Christopher Porrino and Corrections Commissioner Gary Lanigan raising concerns about the treatment of inmates at the Edna Mahan Correctional Facility.

Mike Deak, *Fifth Edna Mahan Guard Charged with Sexual Assault*, MyCentralNewJersey.com Aug. 17, 2017, <http://www.mycentraljersey.com/story/news/crime/2017/08/17/fifth-edna-mahan-guard-charged-sexual-assault/577992001/>.

Joel Mercado, 36, of Lyndhurst, was indicted Thursday by a Hunterdon County grand jury on two counts of second-degree official misconduct, three counts of second-degree sexual assault and one count of second-degree pattern of official misconduct. Second-degree charges carry a five- to 10-year state prison sentence.

Hunterdon County Prosecutor Anthony P. Kearns III said Mercado, employed as a senior corrections officer and earning \$72,393, was arrested May 24. Mercado had been working at the prison since 2007.

Mike Deak, *Edna Mahan Inmate Claims Sex Assault, Retaliation*, MyCentralNewJersey.com Sept. 28, 2017, <http://www.mycentraljersey.com/story/news/crime/2017/09/28/edna-mahan-inmate-claims-sex-assault-retaliation/712394001/>

An inmate at the Edna Mahan Correctional Facility for Woman has filed a federal lawsuit, claiming she was sexually assaulted by guards who are already facing criminal charges (see complaint above).

The inmate, a 31-year-old Middlesex County woman serving a 21-year sentence for aggravated manslaughter, alleges that she was sexually assaulted by corrections officers Jason Mays and Brian Ambrose.

Ambrose, of Union (Union County), a senior corrections officer since March 2013, will go on trial next week in Hunterdon County Superior Court on one count each of official misconduct and sexual assault.

READ: 4 Edna Mahan guards indicted on sex assault, official misconduct charges

READ: Prison worker charged with giving tobacco to inmate for sex

READ: Fifth Edna Mahan guard charged with sexual assault

Former officer at N.J. women's prison gets 3 years over sex abuse claims

Edna Mahan inmate sues state, hospital, people for \$25 million

6 female inmates can sue guard for sex assault

Locked Up, Fighting Back: More than a dozen inmates accused an officer of abuse. Documents reveal why N.J. fired him. He was never charged with a crime.

NJ Senate: Law and Public Safety Committee



Greenstein, Linda R. - Chair (who invited you via Alison Accettola)

Linda R. Greenstein (born June 7, 1950 in Brooklyn, New York) is an American Democratic Party politician who represents the 14th legislative district in the New Jersey Senate. She is the first woman to hold the Mercer-Middlesex regional State Senate district since Anne Clark Martindell, who filled the seat from 1974 to 1977. She previously served in the General Assembly from 2000 to 2010.

She received an A.B. from Vassar College in Psychology in 1971, an M.A. in 1974 from Johns Hopkins University and was awarded a J.D. in 1984 from the Georgetown University Law Center.

She was a Clinical Associate Professor at the Seton Hall University School of Law, where she supervised the Disability Law Clinic. She has served as a Deputy Attorney General in Trenton and as an Assistant District Attorney in Philadelphia.

LEGISLATIVE SERVICE: Senate 2010-present, Assistant Majority Leader 2012-present; General Assembly 2000-10, Deputy Speaker 2006-10, Assistant Majority Leader 2002-05

COMMITTEES:

- Law and Public Safety, Chair
- Joint Legislative Task Force on Drinking Water Infrastructure, Co-Chair
- Environment and Energy, Vice-Chair
- Budget and Appropriations

Diegnan, Patrick J. - Vice-Chair [View Votes](#)

Bateman, Christopher [View Votes](#)

Holzapfel, James W. [View Votes](#)

Sacco, Nicholas J. [View Votes](#)

Gaps for NJ Senate To Investigate/Address:

1. Hiring policies regarding individuals with a history or reputation of sexual abuse in other institutional settings.
2. Training practices regarding new officers and regular training and sensitization specific to sexual assault/PREA. Current training only addresses "undue familiarity," "inmate manipulation," and broadly, PREA. Can you create/use sexual assault sensitization specific trainings?
3. Also, what are the internal reporting mechanisms for officers who observe inappropriate behavior? Are there anonymous mechanisms available to prison guards? What is being done to combat the "code of silence?"
4. Process required for investigation to move forward. Inmate need to reveal name in order for investigation to proceed? (see Psychologist report: <https://www.documentcloud.org/documents/3415968-Psychologist-Memo.html>)
5. What does "undue familiarity" encompass? If it encompasses any form of sexual assault, can these acts be severed from the umbrella of "undue familiarity." It obscures the issue, gives corrections officers space to cover-up prior assaults when applying for future positions in institutional settings, minimizes the issue, demeans victims' experiences, and evades institutional accountability. (see <https://www.documentcloud.org/documents/3416344-DOC-s-response-to-NJ-Advance-Media.html>).
6. What would it look like to establish a third-party oversight committee with authority to perform *unannounced* regular institutional audits.
7. Ensure inmate safety is put first regarding possible retaliation following a report. Are PREA standards actually being applied? What is the immediate response following a report? Is the alleged abuser removed from a contact position with the alleged victim immediately following a report, without placing the inmate in solitary confinement?
8. How is solitary confinement applied as a protection measure that results in it being used as retaliation, whether intentionally or unintentionally?

Sexual Violence in Women's Correctional Facilities:

Department of Justice, Office of the Inspector General, *Deterring Staff Sexual Abuse of Federal Inmates, 2005*, <https://oig.justice.gov/special/0504/final.pdf>; *The Department of Justice's Efforts to Prevent Staff Sexual Abuse of Federal Inmates, September 2009*, <https://oig.justice.gov/reports/plus/e0904.pdf>.

- The Department of Justice Office of the Inspector General (OIG) is responsible for investigating allegations of staff sexual abuse of inmates held in the custody of the Federal Bureau of Prisons (BOP).
- Federal law criminalizes all sexual relations and sexual contact between prison staff and inmates. See 18 U.S.C. §§ 2241, 2243, and 2244.
- In addition to the harm it causes to inmates, staff sexual abuse of inmates can also threaten the safety and security of the prison. For example, staff sexual abuse can corrupt prison staff and lead to other dangers, such as staff smuggling drugs or weapons into prison facilities for inmates.
- Prisoners who are victims of staff sexual abuse may suffer physical pain, fear, humiliation, degradation, and desperation, and this harm can last beyond the victims' incarceration. Moreover, because female prisoners often have histories of being sexually abused, they are even more traumatized by further abuse inflicted by correctional staff while in custody.
- Staff sexual abuse also can expose the BOP and its staff to both civil and criminal liability.
- The federal penalties for staff members engaging in sex with inmates are contained in Title 18 of the United States Code (U.S.C.).
- Congress subsequently passed two laws, the Violence Against Women and Department of Justice Reauthorization Act of 2005 (DOJ Reauthorization Act of 2005), which increased the maximum criminal penalty for certain sexual abuse crimes, made those crimes felonies instead of misdemeanors, and extended federal criminal jurisdiction to all personnel working in private prisons under contract to the federal government. The Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act) further increased the maximum penalties for certain sexual abuse crimes and requires federal employees who are found guilty of any criminal sexual abuse offense involving a federal prisoner to register as a sex offender.
- According to OIG case statistics, most of sexual abuse cases investigated by the OIG do not result in prosecution.
- OIG and BOP investigators reported that investigating staff sexual abuse and sexual misconduct poses many challenges that make it difficult to conclude whether sexual abuse or misconduct occurred. Victims of sexual abuse often delay reporting incidents because they do not want to be isolated in the special housing unit and transferred to another prison. Moreover, opportunities to develop further evidence often cannot be explored because it would expose the inmate to further abuse. In addition to the general challenges in conducting investigations in a prison environment, BOP local investigators told us that a lack of training and experience has hampered their investigations.

DC

Women inmates in the District of Columbia (D.C.) correctional system alleged that they were being mistreated in a variety of ways, including sexual harassment, unequal educational and work-related programming as compared to similarly situated male inmates, and general inhumane conditions ranging from roach infestation to fire hazards. They further alleged that DC corrections officials were both aware of these conditions and indifferent to them, as evidenced by the former administrator of one facility stating that "You just get this sense that [sexual misconduct] has always happened and it is always going to happen." This suit was filed as a class action on behalf of all women prisoners in the DC correctional system alleging sex discrimination in violation of Title IX, violations of the Fifth and Eighth Amendments to the United States Constitution, and violations of DC law.

The Court held that D.C. violated Title IX of the Education Amendments of 1972, D.C. Code § 24-442, and the Fifth and Eighth Amendment rights of women prisoners in the D.C. correctional system because of its indifference toward sexual harassment and unequal opportunities and treatment for women as compared to men in similar correctional systems, including inadequate medical care, programming, and facility conditions.

Following the Supreme Court's denial of certiorari, the parties entered into a joint stipulated settlement.

See Women Prisoners of the D.C. Dep't of Corrs. v. District of Columbia, 899 F. Supp. 659 (D.D.C. 1995).

Michigan

In 1998, the Michigan Department of Corrections was sued by a class of women plaintiffs for sexual assaults, sexual abuse, sexual harassment, and inappropriate visual surveillance within its two corrections facilities (Robert Scott & Western Wayne Facility) for women. The lawsuit brought international attention when the current Michigan governor refused to allow the UN human rights officials access to the prisons and called the lawsuit, of which the Department of Justice was involved, "baseless." Ten years later, the state paid \$100 million in 2009 to settle a class-action lawsuit brought on behalf of what turned out to be 500 female inmates who were raped, abused or harassed by male prison guards. The settlement followed two jury verdicts in which smaller groups of women inmates had won verdicts that, with interest, approached \$60 million.

See Neal v. Dep't of Corr., 583 N.W.2d 249 (1998); *Mason v. Granholm*, No. 05-73943, 2007 U.S. Dist. LEXIS 4579 (E.D. Mich. Jan. 23, 2007); *Nunn v. Mich. Dep't of Corr.*, No. 96-CV-71416, 1997 U.S. Dist. LEXIS 22970 (E.D. Mich. Feb. 4, 1997).

Alabama

In 2015, DOJ entered into an agreement with the state of Alabama and its corrections department to compel reforms at a women's prison where inmates for years have faced sexual assault by predatory correctional staff.

An investigation by the Justice Department showed that the more than 900 prisoners inside the maximum-security Julia Tutwiler Prison for Women in Wetumpka, Ala., had lived "in a toxic environment" where they have been raped, sodomized, forced to engage in oral sex and fondled.

See U.S. Department of Justice, *Justice Department Reaches Landmark Settlement with Alabama to Protect Prisoners at Julia Tutwiler Prison for Women from Harm Due to Staff Sexual Abuse and Sexual Harassment*, May 28, 2015, <https://www.justice.gov/opa/pr/justice-department-reaches-landmark-settlement-alabama-protect-prisoners-julia-tutwiler> (quoting *United States v. State of Alabama*, (M.D. Ala. 2015) (settlement agreement)).

Washington

\$1 M awarded to women as part of class action lawsuit against prison for sexual assault.

Five former inmates at the Washington Corrections Center for Women were awarded \$1 million dollars. The women claimed that staff sexual misconduct and assault were rampant in the prison and that prison officials failed to adequately investigate the complaints. Even after the victims filed complaints and the DOC investigated those complaints, the sexual assaults continued. The women sued for both damages and injunctive relief in the form of systemwide changes. Five out of the six identified perpetrators had either resigned or were let go at the time of the suit.

Inmates who filed complaints were not given the opportunity to submit to rape-kit examination but were given lie-detector tests instead. In 2008 alone, there were 94 reports of sexual misconduct involving staff and inmates at all 15 state prisons. Of those, DOC investigators only substantiated 23. Only the monetary portion of the lawsuit was settled.

As part of a class action settlement, the DOC agreed to enforce a "zero tolerance" policy regarding sexual misconduct, not to rehire five male correctional officers accused of abuse, and to submit regular reports on staff misconduct in women's prisons. In the four years before the lawsuit, complaints alleging sex abuse by Purdy guards tallied 41. From 2011 to 2014, the count was 95, more than double.

See Complaint, *Jane Doe v. Clarke*, No. 07-2-01513-0, Dkt. No. 4 (Thurston Co. Super. Ct. July 31, 2007); Stipulation and Proposed Order, *Jane Doe v. Clarke*, No. 07-2-01513-0, Dkt. No. 170 (Thurston Co. Super. Ct. Aug. 6, 2010).

Oregon

Numerous sexual assaults at Coffee Creek Correctional Facility. A principle issue reported was numerous blind spots on the facility grounds in Wilsonville, Oregon. The abuse went on for years, allegedly. Additionally, supervisors took no corrective action when inmates reported the abuse. The state settled with 17 victims in 2008 for \$1.2 million, though reports of abuse continued. The state of Oregon hired an independent security expert to review the prison safety conditions last year, but the findings were allegedly not shared with Coffee Creek prison officials and prison managers could not acquire funding to correct security problems. Sexual assaults continued even after inmates filed complaints related to specific individuals, as action was not taken against these individuals.

In 2009, auditors made recommendations for 28 improvements. Some changes that were actually made were implementing a "Rule of Three," barring entry to certain parts of the prison (including blind spots) without at least three individuals, a mix of inmates and staff. Other blind spot areas of the prison had restricted access.

http://www.oregonlive.com/politics/index.ssf/2012/04/abuse_of_women_inmates_at_oreg.html; <http://www.documentcloud.org/documents/346741-national-institute-of-corrections-audit-findings.html>

Pennsylvania

This past week, seven guards have been charged with sex abuse at Lackawanna Pennsylvania prison. The guards are charged with sexually abusing female inmates after using their positions "to manipulate and dominate female inmates" in what the state attorney general called Thursday was an effort to put a halt to a "persistent culture of abuse" that has plagued the scandal-ridden lockup for over 10 years now. This is rising out of an investigation into a class action brought by four inmates.

See *Fox, et al. v. Lackawanna County, et al.*, 3:16-CV-1511(M.D. Pa. Dec. 8, 2016).

New Hampshire

March 29, 2008

<http://www.fosters.com/article/20080329/NEWS0201/696307581>

New Hampshire pays \$1.9 million to 30 female inmates and a corrections department employee who accused a former prison sergeant of raping or harassing them. Prior to settling the case, the plaintiffs were seeking \$4.5MM. The individual payments they received in the end ranged from \$6,000 to \$228, 000.

Douglas Tower, the officice was convicted in 2007 of six counts of rape and sexual assault against a female inmate he supervised at the Shea Farm halfway house in Concord, and of grabbing another inmate by the neck. Along with the department, he

faced eight civil lawsuits filed by a group of inmates and a corrections department worker alleging misconduct ranging from inappropriate comments to rape.

The state did not admit liability, stepped up its training and changed policies because of the Tower case.

- Because Tower was convicted of assaulting an inmate in a prison van, the state now allows only female employees to transport female inmates. Drivers must check in when they leave a facility and when they arrive at their destination.
- Because assaults happened in rooms with no windows, more rooms at the halfway house have windows, and surveillance cameras. Pat-down searches of female offenders are now only conducted by female employees. A female employee will be on duty at all times in female facilities.
- With a \$1 million grant, the state hired an investigator specifically for sexual misconduct cases, and a victim advocate.
- A new administrator works on developing and improving programs for women and monitors how their cases are handled.
- All new corrections employees now must pass a polygraph test

See Hewes v. Belknap Cty., No. 17-cv-394-SM, 2018 U.S. Dist. LEXIS 24948 (D.NH Feb. 15, 2018).

A former inmate of the Belknap County jail sued the county and Justin Blanchette, the former deputy sheriff who was convicted and then cleared of coercing her to have sex with him while on the way to the state prison and a dentist appointment. See Hewes v. Belknap Cty., No. 17-cv-394-SM, 2018 U.S. Dist. LEXIS 24948 (D.NH Feb. 15, 2018).

Blanchette was sentenced to 10 to 20 years in prison for aggravated felonious sexual assault in the case. But the New Hampshire Supreme Court reversed the conviction, citing state law that prohibits sexual contact involving a person who has authority over a victim by virtue of employment. In this case, Blanchette was employed by the county sheriff, not the jail or prison who were specifically referenced as employers in the NH statute. This month, the New Hampshire House unanimously approved a change in the wording of the state's sexual assault law to cover situations like the Blanchette case. The bill is awaiting approval in the Senate.

<http://www.seacoastonline.com/news/20171029/bill-looks-to-close-nh-sexual-assault-loophole>

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RECEIVED
SUPERIOR COURT OF N.J.
HUNTERDON COUNTY
2017 NOV 13 A 11:52
DEPUTY CLERK
CIVIL DIVISION

A.F. and M.D.,
Plaintiffs,

v.

STATE OF NEW JERSEY DEPARTMENT OF
CORRECTIONS, JOHN DOE (1-10) fictitious
names, JOHN DOE SUPERVISOR (1-10)
fictitious names, JOHN DOE, INC. (1-10)
fictitious names,
Defendants.

SUPERIOR COURT OF NEW JERSEY
HUNTERDON COUNTY - LAW DIVISION
DOCKET NO.: HUN-L-359-17

Civil Action

FIRST AMENDED COMPLAINT WITH
JURY DEMAND

Plaintiffs A.F. and M.D. by way of complaint against defendants, hereby state:

1. Plaintiff A.F. is an adult individual currently residing in the City of Vineland,
County of Cumberland, State of New Jersey.
2. Plaintiff M.D. is an adult individual currently residing in the City of Edison, County
of Middlesex, State of New Jersey.
3. Defendant State of New Jersey, Department of Corrections is a public entity
amenable to suit.
4. Defendant operates the Edna Mahan Correctional Facility for Women, which is a
place of public accommodation subject to the New Jersey Law Against
Discrimination, N.J.S.A. 10:5-12, *et seq.*
5. John Doe (1-10) fictitious names are heretofore-unidentified Corrections

Officers, Special Operations Officers, other employees of the Department of Corrections, or other individuals who were negligent, liable, or otherwise responsible to the harm suffered by plaintiffs.

6. John Doe Supervisors (1-10) fictitious names are heretofore-unidentified Corrections Officers, Special Operations Officers, other employees of the Department of Corrections, or other individuals who were negligent, liable, or otherwise responsible to the harm suffered by plaintiffs.
7. John Doe, Inc. (1-10) fictitious names are heretofore unidentified legal entities that were negligent or otherwise liable for the herein described harm to plaintiffs.
8. At all times relevant herein, plaintiffs A.F. and M.D. were incarcerated at the Edna Mahan Correctional Facility for Woman, operated by defendant State of New Jersey Department of Corrections, located at 30 County Road 513, City of Clifton, County of Hunterdon, State of New Jersey.
9. At or about May of 2016, both plaintiffs A.F. and M.D. were housed in or about Cottage A of the Edna Mahan facility.
10. At the aforementioned time, Correctional Officer Jason Mays was one of the regular officers assigned to supervise the approximately sixty (60) female inmates housed in Cottage A, generally working Sundays and/or Mondays from 5:30 A.M. through 2:00 P.M.
11. On or about July of 2016, Officer Mays began to make inappropriate comments to M.D. of a sexual nature.
12. On or about July of 2016, Officer Mays began entering into M.D.'s room in

- Cottage A after she completed her working shifts from 9:00 P.M. to 5:30 A.M. in the kitchen and would stand over her and comment that he wanted to have sexual intercourse with M.D.
13. On or about August 2016, Officer Mays came into M.D.'s room when she was asleep in her underwear and pulled the covers off of her and stood over her for several minutes before leaving.
 14. On or about August of 2016, Officer Mays came into M.D.'s room after she had gotten out of the shower and instructed her to show him her vagina.
 15. On or about August 2016, Officer Mays instructed M.D. to come into the office in Cottage A where he propositioned her to engage in sexual intercourse with him. After she refused, Officer Mays threatened that he would discipline her and she should be careful she did not "slip up."
 16. On or about August 2016, Officer Mays came into M.D.'s room while she was in bed and stood over her masturbating himself through his pants before leaving at her insistence.
 17. On or about August 2016, Officer Mays came into M.D.'s room while she was in bed, took out his penis, and began to masturbate. Then he came to stand over her, took her hand, and placed it on his penis to force her to masturbate him for several minutes before leaving.
 18. On or about September 2016, Officer Mays began making inappropriate comments and sexual innuendos to A.F. including but not limited to commenting on her rear, telling her to take off her clothes, and telling her that she should have sexual intercourse with him.

19. On or about late September 2016, Officer Mays threatened to discipline A.F. for taking a pie from the kitchen if she did not go to her room and undress. After she did so under duress, Officer Mays came into her room and proceeded to take his penis out of his pants and masturbate while she stood there naked.
20. On or about late September/early October 2016, Officer Mays came into A.F.'s room while she was in bed. A.F. was terrified and pretended to be asleep. Officer Mays proceeded to grope her breasts and look and kiss her breasts and neck before taking out his penis and masturbating over A.F.
21. Thereafter, Mays repeatedly commented to A.F. that she should go to her room so that they could be alone together.
22. In early October 2016, Officer Mays again came into A.F.'s room and told her to turn over. When she pretended to be asleep, he came over and began groping her breasts before A.F. began screaming at him to get out of the room.
23. Despite prior complaints lodged against Mays for conduct of this nature, he had been permitted to continue in a position as the sole supervisor of plaintiffs, and indeed all of Cottage A, during his shifts. Officer Mays utilized this position, the lack of direct oversight, and the inattention and/or willful ignorance of his supervisors to sexually assault plaintiffs as well as multiple other victims.
24. As a result of defendants' conduct, plaintiffs have suffered permanent harm including, but not limited to a violation of their state constitution rights to due process and against cruel and unusual punishment, loss of earnings and depreciation of earning capacity, loss of activities, mental pain and suffering, psychological/psychiatric injury, embarrassment, humiliation and degradation,

the loss of the normal pleasures and enjoyment of life, as well as having to receive and undergo psychological and medical attention. Plaintiffs have come to expend various sums of money and to incur various expenses for the injuries suffered and may have to expend such sums in the future and are entitled to reimbursement for medical expenses including, but not limited to, out-of-pocket expenses, deductible and co-payment out-of-pocket expenses, all health insurance liens, Medicare liens, Medicaid liens and any other reimbursement due for any reasonable and necessary medical expenses incurred or to be incurred as the result of this incident.

COUNT I – HOSTILE ENVIRONMENT SEXUAL HARASSMENT
A.F. & M.D. v. STATE OF NEW JERSEY DEPARTMENT OF CORRECTIONS

25. Plaintiffs incorporate the previous paragraphs of the complaint by reference
26. This count is pled pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
27. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
28. Defendant had complete care, custody, and control over plaintiffs such that the impact of threatening, harassing, or discriminatory conduct was magnified.
29. Correction Officer Jason Mays was in a position of supervision and control over A.F. and M.D. and was empowered by defendant to control plaintiffs' daily activities and to take or initiate tangible disciplinary action against them.
30. The herein described course of sexual harassment and sexual assault by Officer

Jason Mays was committed within the course and scope of his employment in a supervisory position over plaintiffs' and aided by such authority granted him by defendant.

31. The herein described course of sexual harassment and sexual assault by Officer Jason Mays created a hostile, threatening, and demeaning environment based on plaintiffs' sex in violation of the New Jersey Law Against Discrimination.

32. The herein described conduct was sufficiently outrageous that a similarly situated person would have perceived it to create a hostile environment.

33. Defendant was negligent and/or reckless in that it knew or should have known of the conduct of Jason Mays as well as numerous other corrections officers who had been reported for sexual harassment or assault and failed to take reasonable corrective measures to address.

34. Defendant failed to enact or enforce effective policies or practices to prevent or address sexual harassment or assault at the Edna Mahan Correctional Facility.

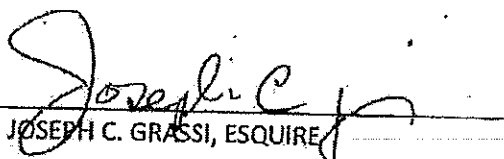
35. As a result of defendants' conduct, plaintiffs have suffered permanent harm including, but not limited to a violation of their state constitution rights to due process and against cruel and unusual punishment, loss of earnings and depreciation of earning capacity, loss of activities, mental pain and suffering, psychological/psychiatric injury, embarrassment, humiliation and degradation, the loss of the normal pleasures and enjoyment of life, as well as having to receive and undergo psychological and medical attention. Plaintiffs have come to expend various sums of money and to incur various expenses for the injuries suffered and may have to expend such sums in the future and are entitled to

reimbursement for medical expenses including, but not limited to, out-of-pocket expenses, deductible and co-payment out-of-pocket expenses, all health insurance liens, Medicare liens, Medicaid liens and any other reimbursement due for any reasonable and necessary medical expenses incurred or to be incurred as the result of this incident.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants State of New Jersey Department of Corrections, John Doe (1-10) fictitious names, John Doe Supervisor (1-10) fictitious names, and John Doe, Inc. (1-10) fictitious names individually, jointly, severally, and/or in the alternative in an amount sufficient to compensate them for their damages under the laws of the State of New Jersey, together with interest, costs of suit, reasonable counsel fees and such further relief as this Court deems just and appropriate.

BARRY, CORRADO & GRASSI, P.C.
Attorneys for plaintiff

By:


JOSEPH C. GRASSI, ESQUIRE

Dated:

11/6/17

DEMAND FOR JURY TRIAL

Jury trial is demanded on all issues raised herein.

DESIGNATION OF TRIAL COUNSEL

TAKE NOTICE that Joseph C. Grassi, Esquire is hereby designated as trial counsel in the above captioned litigation for the firm of Barry Corrado & Grassi, P.C. pursuant to R. 4:5-1.

R. 4:5-1 CERTIFICATION

I certify the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated, except as follows: None.

There are no other known necessary parties, other than any presently unknown defendants, designated herein as fictitious defendants, John Does 1-10.

CONFIDENTIAL PERSONAL IDENTIFIERS

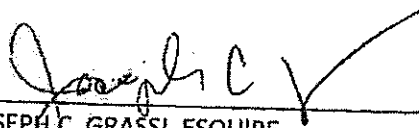
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

BARRY, CORRADO & GRASSI, P.C.
Attorneys for plaintiff

Date:

11/6/17

By:


JOSEPH C. GRASSI, ESQUIRE

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215-351-3333

Attorneys for Plaintiff

JESSICA MORALES,
BREANNA PIMIENTA,
Plaintiffs

v.

BRIAN AMBROISE
Individual and official capacities;
THOMAS SEGUINE,
Individual and official capacities,
TORREY SMITH,
Individual and official capacities,
VICTOR SCOTT,
Individual and official capacities,
WILLIAM ANDERSON,
Individual and official capacities;
SARAH DAVIS,
Individual and official capacities
GARY LANIGAN,
Individual and official capacities,
JOHN and JANE DOES 1-10;
EDNA MAHAN CORRECTIONAL
FACILITY FOR WOMEN;
STATE OF NEW JERSEY
DEPARTMENT OF CORRECTIONS;
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CIVIL ACTION
MERCER COUNTY

NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Jessica Morales and Breanna Pimienta, by and through their attorneys, Mark B. Frost & Associates, hereby brings this Complaint against Defendants Brian Ambroise, Thomas Seguine, Torrey Smith, William Anderson, Sara Davis, Gary Lanigan, John Does 1-10; Edna Mahan Correctional Facility for Women, and the State of New Jersey, Department of Corrections:

INTRODUCTION

1. This case arises out of the sexual assault of Plaintiffs Jessica Morales and Breanna Pimienta by Corrections Officers of the Edna Mahan Correctional Facility for Women ("Edna Mahan" or "EMCF"), and the failure of EMCF and New Jersey Department of Corrections administrator's to take proper action to prevent, halt, or remedy said conduct. All individual Defendants were at all times material officers and/or officials at EMCF and/or the New Jersey Department of Corrections.
2. All claims herein arose within New Jersey and involve Defendants

PARTIES

3. Plaintiff Jessica Morales is individual citizen of the State of New Jersey, currently incarcerated at the Edna Mahan Correctional Facility for Women.
4. Plaintiff Breanna Pimienta is individual citizen of the State of New Jersey, currently incarcerated at the Edna Mahan Correctional Facility for Women.
5. EMCF is a correctional facility run by the State of New Jersey Department of Corrections and houses state-sentenced inmates, located at 30 Route 513, Clinton, NJ 08809.
6. The New Jersey Department of Corrections is located at Whittlesey Road, Trenton, NJ 08625, and is responsible for the oversight and operations of EMCF.
7. Gary Lanigan is and has been for all times material the Commissioner for the New Jersey Department of Corrections.
8. Defendant Brian Ambrose was at all times material a corrections officer at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.

9. Defendant Thomas Seguire was and has at all times material been a corrections officer at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.
10. Defendant Torrey Smith was at all times material a corrections officer at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.
11. Defendant Victor Scott at all times material a corrections officer and SID investigator at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.
12. Defendant William Anderson served, from approximately 2015 to 2017, as the Administrator at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.
13. Defendant Sarah Davis is and has at all times material since 2017 served as Administrator at the Edna Mahan Correctional Facility for Women, located at 30 Route 513, Clinton, NJ 08809.
14. John Does 1-10 are other corrections officers who have unjustifiably retaliated against Plaintiff as set forth below and/or assisted in the creation of a policy of knowingly acquiescing to sexual assault in the Edna Mahan Correctional Facility.

FACTS

A. JESSICA MORALES

15. Jessica Morales has been incarcerated in the Edna Mahan Correctional Facility since approximately 2014.

16. Since approximately 2015, Defendant Ambroise sexually pursued and sexually harassed Plaintiff. At all times material herein, Plaintiff acquiesced to these acts, in fear of retaliation.
17. In approximately the summer of 2015, Ambroise performed oral sex on Plaintiff.
18. Ambroise began to frequently perform oral sex on Plaintiff, approximately once to three times per month, from the summer of 2015 through the summer of 2016.
19. Upon information and belief, the administration of EMCF was aware of Ambroise's conduct towards Plaintiff and/or towards other EMCF inmates, as well as discriminating and/or sexually harassing conduct.
20. Further, other officers in EMCF frequently sexually harassed Plaintiff.
21. For example, guards frequently opened the curtain to the bathroom while Plaintiff was showering and naked in full view of the officers.
22. Additionally, male guards also entered her living space unannounced after Plaintiff would return from a shower, in an attempt to see Plaintiff naked or partially naked, while in the process of changing clothes and/or getting dressed.
23. In September of 2017, Plaintiff complained to SID investigator Scott and the Hunterdon County Prosecutor's Office, regarding the aforementioned conduct of the defendants and employees of EMCF and/or NJDOC.
24. After complaining regarding the above conduct, Plaintiff has been retaliated against by officers, who frequently destroy Plaintiff's possessions for no legitimate reason, in order to retaliate against her for her complaints.

25. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiff.

B. Breanna Pimienta

26. Plaintiff Breanna Pimienta has been incarcerated at EMCF since approximately June of 2013.

27. From approximately June of 2013 until approximately February of 2016, Plaintiff was assigned to the Hillcrest housing unit of EMCF.

28. In approximately 2013, Officer [FNU] Dixon grabbed Plaintiff's buttocks without consent.

29. Plaintiff did not report this, out of fear of retaliation.

30. Thereafter, in approximately 2014 and 2015 multiple officers, including Dixon and another officer named [FNU] Rivera, began repeatedly making inappropriate comments to Plaintiff, including, "why are you wearing tight pants like that," and "hey, babe."

31. During this time, Defendant Seguire attempted to befriend Plaintiff, in an attempt to ultimately have a sexual relationship with Plaintiff.

32. In January of February of 2015, Plaintiff verbally complained to Defendant Seguire regarding Dixon's conduct and the aforementioned comments made by other officers.

1. Seguire Engages In Sexual Intercourse with Plaintiff

33. Seguire then began to frequently speak to Plaintiff for no legitimate purpose and baked brownies for her, for the purpose using his status as an officer in order to develop a sexual relationship with Plaintiff.

34. In or around February of 2015, Seguire engaged in sexual intercourse with Plaintiff. Plaintiff allowed this to occur out of fear of retaliation.
35. In middle-end of February of 2015, Seguire's assignment changed and he was no longer assigned to Plaintiff's unit.
36. At the end of February of 2015, Seguire gave Plaintiff his home address, in order to have Plaintiff and Seguire surreptitiously correspond with one another, using Seguire's address but a different name.
37. Plaintiff and Seguire thereafter corresponded via letter, on a repeated basis.
38. This correspondence continued until Seguire's arrest in February of 2016, as set forth below.
39. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiff.

2. Defendant Smith Sexually Harasses Plaintiff

40. In January of 2016, while Plaintiff was still housed in Hillcrest, another officer, Defendant Torrey Smith, began to sexually harass Plaintiff, in a similar manner as had Seguire.
41. In January of 2016, Smith pulled the curtain to the shower while Plaintiff was naked.
42. In February of 2016, Smith gave Plaintiff a necklace for Valentine's Day.
43. Smith also at or around this time gave Plaintiff a vibrator, indicating that he wanted to watch Plaintiff masturbate using the vibrator.
44. Smith, in or around February of 2016, placed his hands on Plaintiff's genitals, under her clothes, directly on Plaintiff's vagina, and touched her vaginal area.

45. On several occasions, Smith pressured Plaintiff to use the vibrator on herself, but Plaintiff refused.
46. After Plaintiff repeatedly refused to do so, Smith took the vibrator back from Plaintiff.
47. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiff.

3. Defendants Retaliate Against Plaintiff

48. In or around February 15, 2016, another inmate complained about Smith's conduct regarding Plaintiff.
49. That day, Plaintiff's belongings were searched, and investigators found the necklace given to Plaintiff by Smith, as well as a series of letters between Seguire and Plaintiff, wherein Seguire admitted to his sexual assault of Plaintiff.
50. Upon information and belief, Seguire was then found to be in possession of letters from Plaintiff as well as photos from Plaintiff's Facebook page.
51. That day, February 15, 2016, Plaintiff was involuntarily hospitalized until approximately February 17, 2016, following the discovery that Plaintiff had been sexually assaulted by Defendant Seguire.
52. While in the hospital, Plaintiff was approached by Lt. Riotto, who indicated that if Plaintiff did not want to be taken to protective custody, that she would have to sign a document declining protective custody. Because Plaintiff feared the conditions of protective custody, including what essentially constituted solitary confinement, Plaintiff declined protective custody.

53. However, despite Plaintiff declining protective custody, on or about February 17, 2016, Plaintiff was placed against her will by Defendant Anderson, on behalf of EMCF and NJDOC, in "involuntary protective custody" in an area at EMCF called "C Cottage".
54. Plaintiff remained at C Cottage from approximately February of 2016 to April of 2016, where she was forced to remain essentially in solitary conditions for months.
55. When Plaintiff was placed in protective custody, any time she was taken out of her cell, she was videotaped. This was done for no legitimate reason and instead was to retaliate against you.
56. She was further denied the right to call her family or have visitors, for approximately one month.
57. Thereafter, Plaintiff was questioned by Defendant Scott about the necklace given to her by Smith; out of fear of further retaliation, she denied at that time that Smith gave her the necklace.
58. Upon information and belief, Smith had given necklaces to multiple female inmates whom he was sexually pursuing, and Scott and administrators at EMCF knew about this practice.
59. In or around February of March of 2016, Seguire was arrested.
60. While Plaintiff was in protective custody, approximately 4-5 Jane Doe officers, including Officer M. [FNU] Cruz, repeatedly told Plaintiff that Seguire had a family, that Plaintiff should try to help Seguire in his impending criminal matter, and they made other attempts to pressure Plaintiff into denying sexual assault by Seguire. These officers also made comments to Plaintiff that Plaintiff's "pussy must taste good", because both Smith and Seguire had pursued Plaintiff sexually.

61. In or around February of March of 2016, while Plaintiff was confined alone at the cottage against her will, Administrator Anderson approached Plaintiff and told her that "Jesus couldn't help you," referring to the retaliation that Plaintiff was facing and was going to face by Anderson himself and officers at EMCF.
62. In February of 2016, Plaintiff was interviewed by Investigator Scott, an individual from a prosecutor's office, and a third (unknown) individual, regarding Seguine. Scott stated that if Plaintiff did not state what happened to her, she would not be permitted to leave involuntary protective custody, and would then be shipped to "Delaware Prison." Plaintiff then reported Seguine's above conduct, upon being shown correspondence between Plaintiff and Seguine by Scott.
63. In approximately March of 2016, Plaintiff was placed in a suicide cell, for no legitimate reason, at the orders of Administrator Anderson, in order to retaliate against her for her reporting of Seguine's sexual assault. In said cell, Plaintiff was stripped of her clothes and blanket, and was deprived of the ability to shower or cleanse her body.
64. This was done to retaliate against Plaintiff.
65. Plaintiff was then told by EMCF that her placement in said cell was to take a pregnancy test, and that she would not be permitted to leave until she took said test.
66. Plaintiff informed them that she could not be pregnant, because she had had sex with Seguine over a year earlier.
67. Despite this, EMCF insisted that she take a pregnancy test.
68. Plaintiff was forced, under distress, to take a pregnancy test, in violation of her rights to privacy and substantive due process rights.

69. Thus, in or around March of 2016, NJDOC took Plaintiff to an outside hospital, approximately 35-40 minutes outside of EMCF, for pregnancy testing and testing for sexually transmitted diseases.
70. This was done for no legitimate reason, as set forth above, and was instead done to retaliate against Plaintiff.
71. Thereafter, Plaintiff was taken back to C Cottage.
72. As a result of her treatment, Plaintiff suffered emotional distress and a mental breakdown.
73. Plaintiff was subsequently told, in approximately March of 2016, by Defendant Scott that Plaintiff needed to take a lie detector test regarding the identity of who gave her the aforementioned necklace, or she would not be permitted to leave C Cottage. Scott told Plaintiff that if she took the lie detector test, she would not be "shipped to Delaware prison," and that when Plaintiff was released from prison, she would be placed in a halfway house.
74. Plaintiff asked for this to be placed in writing, which Scott refused.
75. Under duress, Plaintiff took the lie detector test, and admitted that Defendant Smith had given her the aforementioned necklace.
76. However, Scott falsely claimed that Plaintiff lied.
77. Plaintiff was also administratively charged with possession of the aforementioned necklace, which constituted contraband, despite EMCF and its administrators knowing that Smith gave Plaintiff said necklace.
78. Thereafter, Plaintiff remained in C Cottage for approximately another six weeks. Scott stated that Administrator Anderson was forcing Plaintiff to remain in involuntary protective custody.

79. Plaintiff requested a transfer to a different unit, but this was denied.
80. On or about April 15, 2016, Plaintiff was placed in North Hall, against her wishes; Plaintiff had requested that she not be placed in North Hall, due to prior threats she had received from a particular Jane Doe inmate located in North Hall at the time.
81. Plaintiff is aware of the name of said inmate, but is not divulging said name in this Complaint out of fear of retaliation.
82. The same day in which she was placed in North Hall, as anticipated, Plaintiff was threatened by said inmate, who attempted to fight Plaintiff.
83. Plaintiff knew that she had been administratively charged for the necklace, and that another charge would lead to her being placed in solitary confinement. Thus, fearing another charge in retaliation for her complaints should she protect herself against said inmate, and knowing that she had been placed in North Hall on purpose by EMCF in an effort cause an altercation and administratively charge Plaintiff, Plaintiff reported under duress back to C Cottage.
84. Plaintiff remained in C Cottage from April 15, 2016 to June of 2016.
85. In May of 2016, Plaintiff was then informed by supervisory correctional officers that Plaintiff should be careful, because officers were mad at her for her complaints, and that they wanted to set Plaintiff up.
86. In May of 2016, Plaintiff then contacted the NJDOC, who informed Plaintiff that Anderson had been repeatedly changing Plaintiff's status between Involuntary Protective Custody (IPC) and Temporary Closed Custody (TCC).

87. This was done to avoid prison regulations regarding the holding of inmates in IPC and TCC, in order to keep Plaintiff in said custody for an indeterminate amount of time, to retaliate against her.
88. Specifically, IPC requires interviews every 20 days to evaluate the need for an inmate to remain in IPC, and TCC which requires an evaluation every three days. Thus, upon information and belief, Anderson continued to change Plaintiff's status from IPC to TCC (and vice versa), in order to have her remain in IPC and TCC for an indeterminate amount of time for retaliatory purposes.
89. In May of June of 2016, Plaintiff wrote to Defendant Anderson to complain about her treatment.
90. Shortly thereafter, in May of June of 2016, Anderson approached Plaintiff, began cursing at her, called her "home girl", and told her that "when I'm ready to let you go, I'll let you go."
91. In June of 2016, Plaintiff was placed back in North Hall, where she remains. Upon her release, Anderson told Plaintiff, "are we gonna have a problem?", inferring that Plaintiff should not complain about any further conduct by EMCF or its officers.
92. Shortly thereafter, Defendant Seguire's brother, EMCF Officer Justine Seguire, began berating and cursing at Plaintiff regarding Defendant Seguire.
93. Despite this, Justin Seguire subsequently was promoted to Sergeant.
94. In January of 2017, Plaintiff told Defendant Scott that multiple other inmates were touched inappropriately by other officers. She also reported to Scott that Smith had given her a vibrator, as set forth above.

95. However, despite the above, Defendant Smith has not been disciplined regarding Plaintiff's complaints, and he remains an EMCF officer; upon information and belief, he has been on medical leave, unrelated to disciplinary reasons, for approximately one year.

96. In October of 2017, Justin Seguire was removed from EMCF.

97. Thereafter, Administrator Davis told Plaintiff that Investigator Scott was using Plaintiff; and that Scott's behavior was "wrong."

98. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiff.

99. As a result of the above, Plaintiff suffered severe physical and emotional harm and distress.

100. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiff.

C. Pattern of Sexual Assault By Officers at EMCF

101. A pattern and practice exists in the EMCF where sexual assault is prevalent and frequently perpetrated by corrections officers on inmates, with the knowledge and acquiescence of EMCF and/or its administrators, including but not limited to Defendants Anderson and/or Davis, as well as with the knowledge and acquiescence of the Department of Corrections and/or its policymakers and administrators.

102. This conduct persists and/or persisted due to the deficient policies and customs of EMCF and/or the New Jersey department of Corrections, and their failure to take timely and adequate corrective action.

103. Upon information and belief, at least sixteen (16) other women have been assaulted by Defendants Ambroise, Seguine and/or Smith and/or other EMCF officers in the past five years.

104. Further, upon information and belief, at least five (5) EMCF officers and/or employees were fired and/or criminally indicted over the past three (3) years over claims of sexual abuse, including but not limited to Defendants Ambrose and Seguine, as well as EMCF officers/employees Ahnwar Dixon, Jason Mays, and Joel Herscap.

105. Notably, upon information and belief, for several years Edna Mahan falsely reported no cases of sexual abuse of inmates and/or under-reported cases of sexual abuse of inmates.

106. As set forth above, Plaintiff complained of multiple occasions regarding said assaults before action was taken by EMCF.

107. Administrators of EMCF and/or NJDOC, including but not limited to Defendants Anderson, Davis and Lanigan, have failed to take appropriate corrective action prior to and subsequent to the above acts complained of by Plaintiffs.

D. Plaintiffs Have Suffered Serious Physical and Mental Injury

108. As a result of the above conduct by the defendants, Plaintiffs have each suffered severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life.

109. Plaintiffs have filed complaints and/or grievances regarding the aforementioned assaults and the retaliation.

110. In doing so, Plaintiffs have reasonably exhausted any administrative remedies available to them.

111. As a result of the above, Plaintiffs have suffered emotional distress, physical pain and suffering, mental pain and suffering, loss of prison benefits, and other damages as set forth above.

112. As a result of defendants' conduct, plaintiffs have suffered permanent harm including, but not limited to a violation of their state constitution rights to due process and against cruel and unusual punishment, loss of earnings and depreciation of earning capacity, loss of activities, mental pain and suffering, psychological/psychiatric injury, embarrassment, humiliation and degradation, the loss of the normal pleasures and enjoyment of life, as well as having to receive and undergo psychological and medical attention.

COUNT I

PLAINTIFF PIMIENTA V. SEGUINE, SMITH, DAVIS, ANDERSON, LANIGAN,
SCOTT & JOHN/JANE DOES
VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT - N.J.S.A. 10:6-2

113. Plaintiff adopts and incorporates by reference the above paragraphs of this Complaint as though each were individually set forth herein at length.
114. Defendants violated Plaintiff's rights under the laws and Constitution of the State of New Jersey, and in particular the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.
115. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendants and/or other corrections officers. Defendants Davis, Anderson, and the NJ DOC, and/or other officials at the DOC or Edna Mahan with policymaking authority, possessed policymaking authority and were responsible for an unofficial policy, practice, or custom of failing to adequately take due care in the hiring of correctional officers, failing to adequately supervise corrections officers, and failing to adequately investigate and respond to reports of sexual assault and harassment made against corrections officers.
116. Plaintiff's rights to equal protection were violated.
117. Plaintiff's substantive due process rights were also violated, and Defendants' conduct shocks the conscience.
118. Plaintiff Pimienta's right to privacy was also violated.
119. The aforementioned official policy, custom, or practice had a direct causal relationship to the sexual assault and harassment suffered by plaintiffs at the hands of

Corrections Officers Seguire and Smith and others, as well as the failure of others to intervene.

120. Such policy, practice, or custom on the part of defendants constituted deliberate indifference to plaintiffs' constitutional rights.
121. Such policy, practice, or custom on the part of defendants were of such an egregious character as to shock the conscience.
122. Defendants' actions and/or inactions violated plaintiffs' well-established right to be free of cruel and unusual punishment as guaranteed by Article I, Paragraph 12 of the New Jersey State Constitution, and substantive due process as guaranteed by Article I, Paragraph I of the New Jersey Constitution.
123. The acts committed by Defendants shock the conscience and constitute intentional misconduct, excessive use of force, assault/battery, cruel and unusual punishment, deliberate indifference to Plaintiff, and an unnecessary, wanton infliction of harm for no good faith purpose, in violation of Plaintiff's constitutional rights as previously set forth in the aforementioned paragraphs.
124. Defendants also retaliated against Plaintiff for her protected complaints, as set forth above.
125. As a direct and proximate result of the aforesaid acts of Defendants, committed under color of law, Plaintiff suffered, severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and other damages.
126. Such acts constituted a violation of the laws and Constitution of the State of New Jersey, in particular N.J.S.A. 10:6-2, and were further in violation of the Statutes of the State of New Jersey and the Constitution of the State of New Jersey.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.

COUNT II
PLAINTIFF PIMIENTA V. DEFENDANTS STATE OF NEW JERSEY DEPARTMENT
OF CORRECTIONS, EMCF, LANIGAN, SEGUINE, SMITH, DAVIS, ANDERSON,
SCOTT & JOHN/JANE DOES
VIOLATION OF NEW JERSEY LAW AGAINST DISCRIMINATION
Discrimination on the Basis of Sex

127. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.
128. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
129. Plaintiff was discriminated against, sexually harassed, subjected to quid pro quo demands, and subjected to a hostile environment because of her gender and/or sex.
130. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendants Smith and Seguire and/or other corrections officers.
131. Defendants' actions violate LAD.
132. The individual defendants aided and abetted the discrimination against Plaintiff.
133. In sum, as a direct and proximate result of the aforesaid acts of Defendants, Plaintiff suffered severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and all other damages set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.

COUNT III
PLAINTIFF PIMIENTA V. DEFENDANTS STATE OF NEW JERSEY DEPARTMENT
OF CORRECTIONS, EMCF, LANIGAN, SEGUINE, SMITH, DAVIS, ANDERSON,
SCOTT & JOHN/JANE DOES
VIOLATION OF NEW JERSEY LAW AGAINST DISCRIMINATION
Retaliation

134. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.
135. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
136. After Plaintiff complained of unlawful discrimination in violation of LAD, specifically via the unlawful sexual assaults and conduct set forth above, Plaintiff was retaliated against.
137. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendants Smith and Seguire and/or other corrections officers.
138. The individual defendants aided and abetted this retaliation and/or were directly involved in said retaliation.
139. Defendants' actions violate LAD.
140. In sum, as a direct and proximate result of the aforesaid acts of Defendants, Plaintiff suffered severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and all other damages set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.

COUNT IV
PLAINTIFF MORALES V. AMBROISE, DAVIS, ANDERSON, LANIGAN and JOHN
DOES
VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT - N.J.S.A. 10:6-2

141. Plaintiff adopts and incorporates by reference the above paragraphs of this Complaint as though each were individually set forth herein at length.
142. Defendants violated Plaintiff's rights under the laws and Constitution of the State of New Jersey, and in particular the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.
143. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendants and/or other corrections officers. Defendants Davis, Anderson, and the NJ DOC, and/or other officials at the DOC or Edna Mahan with policymaking authority, possessed policymaking authority and were responsible for an unofficial policy, practice, or custom of failing to adequately take due care in the hiring of correctional officers, failing to adequately supervise corrections officers, and failing to adequately investigate and respond to reports of sexual assault and harassment made against corrections officers.
144. The aforementioned official policy, custom, or practice had a direct causal relationship to the sexual assault and harassment suffered by plaintiffs at the hands of

Corrections Officer Ambroise, as well as the failure of others to intervene.

145. Such policy, practice, or custom on the part of defendants constituted deliberate indifference to plaintiffs' constitutional rights.
146. Such policy, practice, or custom on the part of defendants were of such an egregious character as to shock the conscience.
147. Plaintiff's rights to equal protection were violated.
148. Plaintiff's substantive due process rights were also violated, and Defendants' conduct shocks the conscience.
149. Plaintiff Pimienta's right to privacy was also violated.
150. Defendants' actions and/or inactions violated plaintiffs' well-established right to be free of cruel and unusual punishment as guaranteed by Article I, Paragraph 12 of the New Jersey State Constitution, and substantive due process as guaranteed by Article I, Paragraph I of the New Jersey Constitution.
151. The acts committed by Defendants shock the conscience and constitute intentional misconduct, excessive use of force, assault/battery, cruel and unusual punishment, deliberate indifference to Plaintiff, and an unnecessary, wanton infliction of harm for no good faith purpose, in violation of Plaintiff's constitutional rights as previously set forth in the aforementioned paragraphs.
152. Defendants also retaliated against Plaintiff for her protected complaints, as set forth above.
153. As a direct and proximate result of the aforesaid acts of Defendants, committed under color of law, Plaintiff suffered, severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and other damages.

154. Such acts constituted a violation of the laws and Constitution of the State of New Jersey, in particular N.J.S.A. 10:6-2, and were further in violation of the Statutes of the State of New Jersey and the Constitution of the State of New Jersey.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.

COUNT V
PLAINTIFF MORALES V. DEFENDANTS STATE OF NEW JERSEY DEPARTMENT
OF CORRECTIONS, LANIGAN, EMCF, AMBROISE, ANDERSON, DAVIS, and JOHN
DOES
VIOLATION OF NEW JERSEY LAW AGAINST DISCRIMINATION
Discrimination on the Basis of Sex

155. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.

156. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*

157. Plaintiff was discriminated against, sexually harassed, subjected to quid pro quo demands, and subjected to a hostile environment because of her gender and/or sex.

158. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendant Ambrose and/or other corrections officers.

159. Defendants' actions violate LAD.

160. Individual defendants aided and abetted the violation of Plaintiff's rights.

161. In sum, as a direct and proximate result of the aforesaid acts of Defendants, Plaintiff suffered severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and all other damages set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.

COUNT VI
PLAINTIFF MORALES V. DEFENDANTS STATE OF NEW JERSEY DEPARTMENT
OF CORRECTIONS, EMCF, LANIGAN, AMBROISE, ANDERSON, DAVIS, and JOHN
DOES
VIOLATION OF NEW JERSEY LAW AGAINST DISCRIMINATION
Retaliation

162. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.

163. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*

164. After Plaintiff complained of unlawful discrimination in violation of LAD, specifically via the unlawful sexual assaults and conduct set forth above, Plaintiff was retaliated against.

165. Defendants maintained deficient policies and/or customs related to training, supervision, reporting, investigations, and/or sexual assault of inmates, which directly led to the conduct of Defendant Ambroise and/or other corrections officers.

166. The individual defendants aided and abetted this retaliation and/or were directly involved in said retaliation.

167. Defendants' actions violate LAD.

168. In sum, as a direct and proximate result of the aforesaid acts of Defendants, Plaintiff suffered severe bodily injury, pain, emotional distress, humiliation, embarrassment, loss of pleasure and enjoyment of life, and all other damages set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages.


JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

Respectfully submitted,

MARK B. FROST & ASSOCIATES

BY:



Ryan M. Lockman
Attorneys for Plaintiffs

DATED: December 4, 2017

DESIGNATION OF TRIAL COUNSEL

Please take notice that pursuant to Rule 4:25-4, Ryan M. Lockman, Esquire is hereby designated as trial counsel in the above-captioned matter on behalf of the firm of Mark B. Frost & Associates

Dated: December 4, 2017

MARK B. FROST & ASSOCIATES



Ryan Lockman, Esq.
Counsel for Plaintiffs

CERTIFICATION

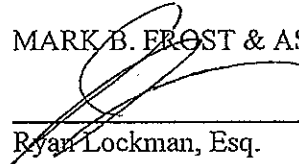
Pursuant to Rule 4:5-1, the undersigned, of full age, hereby certifies that:

1. I am an attorney of the State of New Jersey and I am the attorney principally charged with handling this matter;
2. To the best of my knowledge and information, the within action is not the subject of any other action pending in any Court, or any arbitration proceedings contemplated;
3. To the best of my knowledge and information, there are no other parties who should be joined in this action at this time; and
4. This Certification is provided pursuant to the requirements of Rule 4:5-1.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



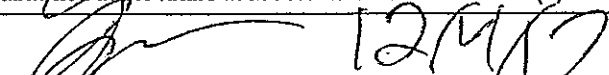
Dated: December 4, 2017

MARK B. FROST & ASSOCIATES



Ryan Lockman, Esq.
Counsel for Plaintiffs

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
				BATCH NUMBER:
ATTORNEY / PRO SE NAME Ryan Lockman		TELEPHONE NUMBER (215) 351-3333	COUNTY OF VENUE Mercer	
FIRM NAME (if applicable) Mark B. Frost & Associates		DOCKET NUMBER (when available)		
OFFICE ADDRESS 1515 Market Street, Ste. 1300, Philadelphia, PA 19102		DOCUMENT TYPE Complaint		
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Jessica Morales and Breanna Pimienta		CAPTION Morales v. Ambroise		
CASE TYPE NUMBER (See reverse side for listing) 005	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input checked="" type="checkbox"/> OTHER (explain) Inmate/Prison <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*.

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|---|
| <ul style="list-style-type: none"> 271 ACCUTANE/ISOTRETINOIN 274 RISPERDAL/SEROQUEL/ZYPREXA 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL 282 FOSAMAX 285 STRYKER TRIDENT HIP IMPLANTS 286 LEVAQUIN 287 YAZ/YASMIN/OCELLA 289 REGLAN 290 POMPTON LAKES ENVIRONMENTAL LITIGATION 291 PELVIC MESH/GYNECARE | <ul style="list-style-type: none"> 292 PELVIC MESH/BARD 293 DEPUY ASR HIP IMPLANT LITIGATION 295 ALLODERM REGENERATIVE TISSUE MATRIX 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS 297 MIRENA CONTRACEPTIVE DEVICE 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR 300 TALC-BASED BODY POWDERS 601 ASBESTOS 623 PROPECIA 624 STRYKER LFIT CoCr V40 FEMORAL HEADS |
|---|---|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

10/10

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-002606-17

Case Caption: MORALES JESSICA VS AMBROISE BRIAN

Case Type: CIVIL RIGHTS

Case Initiation Date: 12/06/2017

Document Type: Complaint with Jury Demand

Attorney Name: RYAN MARC LOCKMAN

Jury Demand: YES - 12 JURORS

Firm Name: MARK B. FROST & ASSOCIATES

Hurricane Sandy related? NO

Address: 1515 MARKET ST STE 1300

Is this a professional malpractice case? NO

PHILADELPHIA PA 19103

Related cases pending: NO

Phone:

If yes, list docket numbers:

Name of Party: PLAINTIFF : Morales, Jessica

Do you anticipate adding any parties (arising out of same

Name of Defendant's Primary Insurance Company

transaction or occurrence)? NO

(if known): Unknown

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Other(explain) Inmate/Prison

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

12/06/2017

Dated

/s/ RYAN MARC LOCKMAN

Signed

JOSEPH C. GRASSI, ESQUIRE
Attorney ID # 033391981
BARRY, CORRADO & GRASSI, P.C.
2700 Pacific Avenue
Wildwood, New Jersey 08260
(P) (609) 729-1333 (F) (609) 522-4927
jgrassi@capelegal.com
Attorneys for Plaintiff

RECEIVED
SUPERIOR COURT OF N.J.
HUNTERDON COUNTY
2017 NOV 13 A 11:52
DEPUTY CLERK
CIVIL DIVISION

A.F. and M.D.,
Plaintiffs,

v.

STATE OF NEW JERSEY DEPARTMENT OF
CORRECTIONS, JOHN DOE (1-10) fictitious
names, JOHN DOE SUPERVISOR (1-10)
fictitious names, JOHN DOE, INC. (1-10)
fictitious names,
Defendants.

SUPERIOR COURT OF NEW JERSEY
HUNTERDON COUNTY - LAW DIVISION
DOCKET NO.: HUN-L-359-17

Civil Action

FIRST AMENDED COMPLAINT WITH
JURY DEMAND

Plaintiffs A.F. and M.D. by way of complaint against defendants, hereby state:

1. Plaintiff A.F. is an adult individual currently residing in the City of Vineland, County of Cumberland, State of New Jersey.
2. Plaintiff M.D. is an adult individual currently residing in the City of Edison, County of Middlesex, State of New Jersey.
3. Defendant State of New Jersey, Department of Corrections is a public entity amenable to suit.
4. Defendant operates the Edna Mahan Correctional Facility for Women, which is a place of public accommodation subject to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12, *et seq.*
5. John Doe (1-10) fictitious names are heretofore-unidentified Corrections

Officers, Special Operations Officers, other employees of the Department of Corrections, or other individuals who were negligent, liable, or otherwise responsible to the harm suffered by plaintiffs.

6. John Doe Supervisors (1-10) fictitious names are heretofore-unidentified Corrections Officers, Special Operations Officers, other employees of the Department of Corrections, or other individuals who were negligent, liable, or otherwise responsible to the harm suffered by plaintiffs.
7. John Doe, Inc. (1-10) fictitious names are heretofore unidentified legal entities that were negligent or otherwise liable for the herein described harm to plaintiffs.
8. At all times relevant herein, plaintiffs A.F. and M.D. were incarcerated at the Edna Mahan Correctional Facility for Woman, operated by defendant State of New Jersey Department of Corrections, located at 30 County Road 513, City of Clifton, County of Hunterdon, State of New Jersey.
9. At or about May of 2016, both plaintiffs A.F. and M.D. were housed in or about Cottage A of the Edna Mahan facility.
10. At the aforementioned time, Correctional Officer Jason Mays was one of the regular officers assigned to supervise the approximately sixty (60) female inmates housed in Cottage A, generally working Sundays and/or Mondays from 5:30 A.M. through 2:00 P.M.
11. On or about July of 2016, Officer Mays began to make inappropriate comments to M.D. of a sexual nature.
12. On or about July of 2016, Officer Mays began entering into M.D.'s room in

- Cottage A after she completed her working shifts from 9:00 P.M. to 5:30 A.M. in the kitchen and would stand over her and comment that he wanted to have sexual intercourse with M.D.
13. On or about August 2016, Officer Mays came into M.D.'s room when she was asleep in her underwear and pulled the covers off of her and stood over her for several minutes before leaving.
 14. On or about August of 2016, Officer Mays came into M.D.'s room after she had gotten out of the shower and instructed her to show him her vagina.
 15. On or about August 2016, Officer Mays instructed M.D. to come into the office in Cottage A where he propositioned her to engage in sexual intercourse with him. After she refused, Officer Mays threatened that he would discipline her and she should be careful she did not "slip up."
 16. On or about August 2016, Officer Mays came into M.D.'s room while she was in bed and stood over her masturbating himself through his pants before leaving at her insistence.
 17. On or about August 2016, Officer Mays came into M.D.'s room while she was in bed, took out his penis, and began to masturbate. Then he came to stand over her, took her hand, and placed it on his penis to force her to masturbate him for several minutes before leaving.
 18. On or about September 2016, Officer Mays began making inappropriate comments and sexual innuendos to A.F. including but not limited to commenting on her rear, telling her to take off her clothes, and telling her that she should have sexual intercourse with him.

19. On or about late September 2016, Officer Mays threatened to discipline A.F. for taking a pie from the kitchen if she did not go to her room and undress. After she did so under duress, Officer Mays came into her room and proceeded to take his penis out of his pants and masturbate while she stood there naked.
20. On or about late September/early October 2016, Officer Mays came into A.F.'s room while she was in bed. A.F. was terrified and pretended to be asleep. Officer Mays proceeded to grope her breasts and look and kiss her breasts and neck before taking out his penis and masturbating over A.F.
21. Thereafter, Mays repeatedly commented to A.F. that she should go to her room so that they could be alone together.
22. In early October 2016, Officer Mays again came into A.F.'s room and told her to turn over. When she pretended to be asleep, he came over and began groping her breasts before A.F. began screaming at him to get out of the room.
23. Despite prior complaints lodged against Mays for conduct of this nature, he had been permitted to continue in a position as the sole supervisor of plaintiffs, and indeed all of Cottage A, during his shifts. Officer Mays utilized this position, the lack of direct oversight, and the inattention and/or willful ignorance of his supervisors to sexually assault plaintiffs as well as multiple other victims.
24. As a result of defendants' conduct, plaintiffs have suffered permanent harm including, but not limited to a violation of their state constitution rights to due process and against cruel and unusual punishment, loss of earnings and depreciation of earning capacity, loss of activities, mental pain and suffering, psychological/psychiatric injury, embarrassment, humiliation and degradation,

the loss of the normal pleasures and enjoyment of life, as well as having to receive and undergo psychological and medical attention. Plaintiffs have come to expend various sums of money and to incur various expenses for the injuries suffered and may have to expend such sums in the future and are entitled to reimbursement for medical expenses including, but not limited to, out-of-pocket expenses, deductible and co-payment out-of-pocket expenses, all health insurance liens, Medicare liens, Medicaid liens and any other reimbursement due for any reasonable and necessary medical expenses incurred or to be incurred as the result of this incident.

COUNT I – HOSTILE ENVIRONMENT SEXUAL HARASSMENT
A.F. & M.D. v. STATE OF NEW JERSEY DEPARTMENT OF CORRECTIONS

25. Plaintiffs incorporate the previous paragraphs of the complaint by reference
26. This count is pled pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
27. Edna Mahan Correctional Facility is a place of public accommodation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
28. Defendant had complete care, custody, and control over plaintiffs such that the impact of threatening, harassing, or discriminatory conduct was magnified.
29. Correction Officer Jason Mays was in a position of supervision and control over A.F. and M.D. and was empowered by defendant to control plaintiffs' daily activities and to take or initiate tangible disciplinary action against them.
30. The herein described course of sexual harassment and sexual assault by Officer

Jason Mays was committed within the course and scope of his employment in a supervisory position over plaintiffs' and aided by such authority granted him by defendant.

31. The herein described course of sexual harassment and sexual assault by Officer Jason Mays created a hostile, threatening, and demeaning environment based on plaintiffs' sex in violation of the New Jersey Law Against Discrimination.

32. The herein-described conduct was sufficiently outrageous that a similarly situated person would have perceived it to create a hostile environment.

33. Defendant was negligent and/or reckless in that it knew or should have known of the conduct of Jason Mays as well as numerous other corrections officers who had been reported for sexual harassment or assault and failed to take reasonable corrective measures to address.

34. Defendant failed to enact or enforce effective policies or practices to prevent or address sexual harassment or assault at the Edna Mahan Correctional Facility.

35. As a result of defendants' conduct, plaintiffs have suffered permanent harm including, but not limited to a violation of their state constitution rights to due process and against cruel and unusual punishment, loss of earnings and depreciation of earning capacity, loss of activities, mental pain and suffering, psychological/psychiatric injury, embarrassment, humiliation and degradation, the loss of the normal pleasures and enjoyment of life, as well as having to receive and undergo psychological and medical attention. Plaintiffs have come to expend various sums of money and to incur various expenses for the injuries suffered and may have to expend such sums in the future and are entitled to

reimbursement for medical expenses including, but not limited to, out-of-pocket expenses, deductible and co-payment out-of-pocket expenses, all health insurance liens, Medicare liens, Medicaid liens and any other reimbursement due for any reasonable and necessary medical expenses incurred or to be incurred as the result of this incident.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants State of New Jersey Department of Corrections, John Doe (1-10) fictitious names, John Doe Supervisor (1-10) fictitious names, and John Doe, Inc. (1-10) fictitious names individually, jointly, severally, and/or in the alternative in an amount sufficient to compensate them for their damages under the laws of the State of New Jersey, together with interest, costs of suit, reasonable counsel fees and such further relief as this Court deems just and appropriate.

BARRY, CORRADO & GRASSI, P.C.
Attorneys for plaintiff

By:


JOSEPH C. GRASSI, ESQUIRE

Dated:

11/6/17

DEMAND FOR JURY TRIAL

Jury trial is demanded on all issues raised herein.

DESIGNATION OF TRIAL COUNSEL

TAKE NOTICE that Joseph C. Grassi, Esquire is hereby designated as trial counsel in the above captioned litigation for the firm of Barry Corrado & Grassi, P.C. pursuant to R. 4:5-1.

R. 4:5-1 CERTIFICATION

I certify the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated, except as follows: None.

There are no other known necessary parties, other than any presently unknown defendants, designated herein as fictitious defendants, John Does 1-10.

CONFIDENTIAL PERSONAL IDENTIFIERS


I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

BARRY, CORRADO & GRASSI, P.C.
Attorneys for plaintiff

Date:

11/6/17

By:


JOSEPH C. GRASSI, ESQUIRE

Women in the Prison System

From the Bonnie Watson Coleman Hearings

Jean Ross, Esq.

2009-2010

Any discussion about women in the prison system must address women as prisoners and women as family members. And any discussion about families must include attention to women when they are confined as well as when return to the community.

Because women cannot rely on public entities to promote and protect their legitimate interests, surviving the experiences of prison and its aftermath requires concerted collective actions by women and their allies, on both sides of the walls, as well as individual efforts to maintain survival.

Some Themes

1. Historically, women have been a small minority of the prison population, but in recent years, the population of women in prisons has significantly increased. Regardless of reportedly lowered short-term prison census trends in New Jersey, which may simply reflect accelerated turnover, the current and anticipated economic climate will predictably result in future increases in female incarceration. Therefore, broad proactive measures for diversion, prison rehabilitation and meaningful safe reentry must be pursued.
2. Because of the continued specialized roles of women in society, the mass incarceration of women has a particularly destabilizing and negative effect on children, families, and communities. To mitigate harm at each of these levels requires collaborative efforts of people in prison and in the community, as well as individualized advocacy.
3. In order for the Department of Corrections to fulfill its statutory missions of promoting public safety and individual rehabilitation for women:
 - a. It must pay attention to and take into account the distinct experiences and status of women in society. In particular, it must take care not to adopt stereotypical assumptions or exacerbate societal disadvantages through its policies and practices. It must also pay particular attention to the historic experiences needs, and vulnerabilities of institutionalized women, as well as to their strengths and capabilities.
 - b. It must seize the opportunities custody provides to assist in repairing family and parental relationships.
 - c. It must model and facilitate supportive relations among institutionalized women, between such women and their peers and allies in the community, and between institutionalized women and prison authorities.
 - d. It must empower institutionalized women, so that they may learn to live safely and productively in the community.

e. It must prepare institutionalized women to emerge from prison more capable of dealing with the realities facing them in society.

4. To fulfill these responsibilities, the Department must go beyond the policies and practices that promote and protect the interests and rights of all prisoners:

a. The Department must reflect the legitimate interests of women and their families - through its leadership, organizational structure, policies and practices.

b. Therefore, it must address gender diversity in its power structures and decision-making bodies, improve transparency of practice, and support democratic mechanisms in the prisons, through which women can support each other and inform and affect Department actions, through individual and collective advocacy.

c. It must advocate for legislative and other state action, and collaborate with state and community agencies that support the legitimate interests and rights of incarcerated and returning women.

d. It must model just treatment of women who work in the prison system.

5. In the unfortunate absence of such proper attention, women in prison, their families, and the community will continue to suffer grievous harm. To mitigate such harm, women in and returning from prison will have to rely on themselves and their allies to protect themselves and promote their legitimate rights interests.

Some Specific Measures

1. In addition to laws and practices promoting and protecting the rights of all prisoners:

a. Legislative initiatives must provide a conceptual and structural framework to ensure proper attention and planning for women in the criminal justice system, with respect to sentencing, conditions of confinement and reentry. For example -

b. Such a framework must include dedicated executive responsibility for planning and monitoring a Departmental women's program, democratic women prisoners' councils, internal and independent legal and advocacy services for imprisoned women, robust grievance and internal due process procedures in the prisons, appealable to the highest "corrections" authorities, internal and external oversight authorities, and meaningful access to judicial appeals.

Since neither laws nor governments can ensure such proper legislative and executive actions, it is essential that women within the prisons and the community develop alliances that enable them to work together for justice in the prison system.

Themes for Families Experiencing Incarceration

Imprisonment is a family experience. Therefore public laws, policies and practices must address the interests of family members and communities impacted by incarceration.

More specifically:

1. Families have the potential to significantly support the legitimate core missions of the prison system. They can promote prisoner rehabilitation, improve the culture and the

safety of the prisons, and facilitate effective reentry - thereby benefiting the people who live and work in the prisons, and the community.

2. Conversely, incarcerated parents can be potential resources to their children and other family members. Supporting family continuity during incarceration can not only enhance children's functioning and lower the risks of future institutionalization, but also create a foundation for more successful reentry.

3. The state has a recognized responsibility to promote family stability, and promote and protect in the interests of all children, including the children of incarcerated parents. To fulfill these responsibilities, the Department of Corrections must adopt policies, programs and practices designed to support and maintain prisoners' families, in cooperation with other state and community agencies.

4. Present prison policies, practices and culture are counterproductive to these ends; they create hardship and increase stress on families, by tone, rule and practice, and they exploit families with few financial resources - thereby frustrating rather than promoting family preservation and the welfare of children.

5. To address these deficiencies, the Department must devote specific attention to family issues and adopt policies and practices consistent with its responsibilities and through which families can support each other, and inform and affect Department action, through individual and collective advocacy. Such policies must include greater transparency of institutional and department actions, and proactive notification to families of significant events.

6. These policies and practices must acknowledge and support the functioning of prisoners, themselves, as family members - specifically as parents, children and partners of people in the community.

7. The state must support independent family advocacy and legal services through which families can ensure proper state action by agents of the prison system, and ensure staff training which will enable prison staff to provide effective services to prisoners as family members and to prisoners' families.

8. Legislation can provide the conceptual and structural framework for such changes.

Some examples of some specific legislative Initiatives

1. Create the position of Assistant Commissioner for Women and Families within the DOC;

2. Require the development of a statewide plan for women, developed in cooperation with the Division of Women, women in prison and the community, and community organization, which will include plans for oversight, diversion, placement, rehabilitation, staff training, and preparation for reentry;

3. Require the proportional inclusion of women among prison and state level staff and, specifically, in state and institutional family councils;
4. Establish a corrections ombuds office within the Department of the Public Defender;
5. Prioritize construction to replace the dorm-style medium security units at EMCF, and establish facilities in each region of the state (not in men's prisons!), to confine women prisoners;
6. Track and respond to allegations of mistreatment of women, to ensure that all prison system employees treat women respectfully and professionally.
7. Include family supportive policies and family preservation programs within the legislative mission of the DOC;
8. Require inter-departmental coordination of services to prisoners and their families;
9. Ensure family notification of significant events and crises;
10. Incorporate appropriate family participation in rehabilitation and reentry planning.

People's Organization For
Progress
P.O. Box 22505
Newark, N. J. 07101
(973) 801-0001



To: The Senate Law and Public Safety Committee
From: New Jersey People's Organization for Progress
Chair Lawrence Hamm (973-801-0001)
Jean Ross, Esq. (609-924-6508)
Date: January 4, 2018 → 2/22/18
Re: Hearing on Sexual Abuse of Female Inmates at the Edna Mahan
Correctional facility

The People's Organization for Progress is an independent, Newark-based, human and civil rights organization. We work with like-minded groups for the improvement of conditions in our communities, and for racial, social, political and economic justice. The majority of our members are people of color, living in urban areas of north Jersey, in communities severely impacted by the criminal justice system and the phenomenon of mass incarceration. Therefore, we work with many advocacy and grassroots organizations, such as the American Friends Service Committee. Jean Ross is a pro bono attorney providing administrative advocacy and representation for people in NJ state prisons, with a strong background in mental health law, acquired through long years working in the mental health system.

The People's Organization for Progress is most appreciative of the attention of the Senate Law and Public Safety Committee to the sexual abuse of women at the Edna Mahan Correctional Facility. (EMCF).

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1. Introduction and the Bottom Line: Priority Recommendations
2. Appendices: Broadening the Lens, The Context: Prisons, Prisoners, Woman, Inattention and Undue Deference
3. Recommendations

Introduction

We do not need to introduce you to the issues, presently so prominent in the media, about the pervasive sexual abuse of women, in contexts of power imbalances. The vulnerability of women, as relatively less powerful actors in so many venues, is exacerbated in historically male dominated institutions, such as our prisons. This is true even for prisons, like EMCF, that confine only women, since the prison culture was created and maintained by the policies and practices of historically male leaders and bureaucracies.

Therefore, it should not be surprising that in order to meaningfully address the problem of sexual abuse at EMCF, it is essential to look closely at the major characteristics of the context in which abuse occurs, the prisons, as well as the how the special vulnerabilities of women in society affect their experiences in prison. Such an approach requires that we use a wider lens to encompass issues of structural justice, institutional responsibilities in a democracy, and empowerment as a component of rehabilitation, rather than just focusing on specific policies and practices related to sexual abuse.

Because of this imperative, we base our recommendations on the general propositions, summarized in the Appendices below. Many of these were discussed and prepared during the extensive community-based Counting the Costs legislative hearings convened by then Assembly Majority Leader Bonnie Watson Coleman in 2009-10. We suggest that the propositions and recommendations should be only the start of a conversation among all stakeholders and continued action by the Legislature.

The Bottom Line: Summary of Priority Recommendations

1. **Increasing transparency and oversight in the prisons:**
 - a. Establish a system for the independent community-based oversight of the prison system, supplemented by prison health services oversight by the Department of Health and Senior Services;
 - b. Revive the Department of the Public Advocate, with authority to conduct advocacy on behalf of individual and classes of prisoners, and enforce the laws governing the DOC, through negotiation, recourse to the Governor, and judicial action; transfer the office of the Corrections Ombudsman to this new Department;
 - c. Strengthen the enforcement of APA publication laws, by the Department of Corrections, and require Department "internal management documents" to be publicly available;
 - d. Require information about prisoner operations and internal "contested cases" to be systematically gathered, reported to, and tracked by the highest level of the Department.
 - e. Strengthen the Department's monitoring of the county jails and enforcement of (enhanced) state regulations of the jails.
 - f. Require the Department to foster communications and relationships between prison and community groups.
 - g. Require education for workers and prisoners on issues that will address racism, misogyny, classism, and the discrimination that is prohibited by New Jersey law.
2. **Focusing attention on women and families**
 - a. Create the position of Assistant Commissioner for Women and Families, within the DOC;
 - b. Require the development of a statewide DOC plan for women prisoners, developed in cooperation with the Division of Women, women in prison, and community organizations, to include plans for oversight, diversion, placement, rehabilitation, staff training, preparation for reentry, and a Women's Council within the prison;
 - c. Require demonstrated progress towards the proportional inclusion of women among prison and state level staff and administration;
 - d. Require the Department to enact family - friendly regulations, designed to facilitate increased communication, contact, and healing, between prisoners and their families.
3. **Modeling Justice: accountability, due process, and bringing law and order in the prisons**
 - a. Enact a Bill of Rights for people in prison, incorporating international human rights norms;
 - b. Enhance due process in all prison proceedings in which prisoner claims or grievances are decided, and in all proceedings which impact on liberty interests;
 - c. Remove the exemption of the DOC from "contested case" reviews by the Office of Administrative Law;
 - d. Require the DOC to track and address patterns of prisoner grievances, in order to identify problematic institutions, units, shifts, services and employees, and strengthen monitoring of responses to prisoner grievances;
 - e. Enact and enforce strict penalties for staff retaliation against prisoners; require referrals to county prosecutors, for their independent investigation and prosecution, when there is reason to believe that prison staff have broken the law;
 - f. Require the Department to terminate exploitative contracts with private agencies.
4. **Improving the protection of life, health and safety**
 - a. Adopt a statutory zero tolerance and reporting policy for abuse of prisoners, as in the psychiatric hospitals (See, N.J.S.A. 4-15 et seq.)
 - b. Require the Commissioner to monitor, track and respond "unusual incidents";
 - c. For the significant population of prisoners with mental illness:
 - i. adopt a modified Patients' Bill of Rights (N.J.S.A. 30:4-23.2)
 - ii. authorize and require the Division of Mental Health and Guardianship Advocacy to provide protection and advocacy services to prisoners;
 - iii. Facilitate the appropriate psychiatric hospitalization of prisoners with serious mental illness, using community Screening Services to screen for commitment.
5. **Changing the Culture**

In general, the culture of an agency or institution is set by its leadership and its rules. See the suggestions for beginning the conversation about culture change, below.

APPENDICES

The Approach: Broadening the Lens

Because of the historical pattern of inattention to prison operations by all branches of government, women in the New Jersey prisons will continue to be subject to sexual and other forms of abuse, unless there is meaningful systems change initiated and/or participated in by independent forces in the community¹ Moreover, the structural dynamics of the hidden, authoritarian and toxic prison system described in the Appendix, below, will frustrate piecemeal attempts to resolve such problems. Therefore, decisive and coordinated community action must be taken to enlist each branch of government in bringing safety to those in state custody, and "law and order," and justice to the prisons.

Specifically, we suggest that a response to the problem of sexual abuse of women at EMCF requires attention to the following:

1. Increasing transparency and independent oversight of the prison system;
2. Modeling justice in prison operations; improving accountability; employing due process, and bringing "law and order" into prison operations;
3. Giving proper attention to women in prison;
4. Improving the mechanisms for the protection of life, health, and safety in the prisons; and
5. Changing the cultural environment of the prisons; partnering with the community

Legislative parameters are required to ensure regulatory reform in each of these areas.

While this list may appear daunting, it reflects the persistence of unacceptable conditions which are long overdue for change. But it also carries the benefit of using the specific horrifying problem of sexual abuse to promote remedies which will improve the entire prison system, and further the statutory missions of that system, and the cause of justice.

We do not have time here to discuss the details of each of these broad issues and recommendations, so the following recommendations are meant to be illustrative rather than comprehensive; nor do we expect any Legislator or Committee to initiate a comprehensive response. Community groups, academic experts, state agency staff and the people and families who have been subject to the prison system must work in partnership with government to make meaningful changes - building on the work of the BWC hearings.

We are committed, with our allies, to pursuing such change. We look forward to working with the Legislature to move forward.

¹ We note that the Department of Corrections (DOC or Department) has adopted and revised agency policies and Internal Management Procedures addressing sexual abuse issues since at least 2008. But none of these informal directives has been enshrined in formal regulations having the force of law and available to prisoners and the public. Although there is information about PREA available on the DOC website, such information may not be available to prisoners, on the web or in their handbooks. One might be excused from inferring that these observations reflect a lack of initiative and prioritization of sexual abuse issues by the DOC administration

THE CONTEXT "CORRECTIONAL FACILITIES - JAILS AND PRISONS" ²

The Institutions³

1. Prisons which confine people in state custody are closed (total) institutions,⁴ which historically resist inquiry, challenge and disclosure of information;
2. They discourage outside access and "interference";
3. They prioritize security and control over all other interests - isolating prisoners, authorizing staff use of weapons and mass staff assaults, and governing all movement and all aspects of prisoners' lives;
4. Prison culture emphasizes obedience, and utilizes humiliation, threats and assaults against persons and property, as well as limitations on privileges, to enforce compliance with orders of militarily-titled custody staff (Sgt., Lt., Major);
5. Staff rule violations and abuse are routinely covered up, by fabricating charges against prisoner victims, transferring witnesses to abuse or other violations, and threatening or engaging in physical retaliation;
6. Even honest and concerned staff are discouraged from reporting observed abuse;
7. Prison operations (policies and practices) are affected by the nature of the population sent to them by the courts - overwhelmingly people who are oppressed, stigmatized and powerless - people of color, people with mental illness, people without wealth, power or influence, and women).

The prison population

8. The prison population, in this era of "mass incarceration," consists overwhelmingly of people from classes of society that have historically been powerless, vulnerable, and oppressed in the wider society, without the individual strength or experience to effectively resist improper authority, such as:
 - a. people of color: In 2017, the adult prison population in NJ was 77% Black and Hispanic;
 - b. women: In 2017 there were only 646 adult women (less than 5%), in a total adult male-centered prison population of 13,972;
 - c. people with mental illness; (Citations available on request.)
 - d. people of low income and without wealth.

Such people are likely to be particularly vulnerable to the authoritarian culture of the prisons

Women

9. Women in general, and many women subject to imprisonment in particular, are especially vulnerable to and fearful of authoritarian power, because of their experiences in the larger society;
10. Group solidarity, which can assist people in the community to resist improper authority, is prohibited and punished;
11. Advocacy and social service resources and support are inadequate to counter the militaristic and punitive culture of the prisons and protect the safety and rights of women (and other prisoners);
12. By history, and in their design and operations, prisons have not acknowledged or accounted for, women's legitimate needs, roles, and responsibilities in their various generational families.⁵ Family contacts, support and advocacy are hampered, rather than encouraged, causing great suffering among women prisoners, weakening family ties and harming children whose mothers are incarcerated.

Government inattention, undue public deference to prison authority, and economic interests promoting inertia

13. Community law enforcement entities defer to prison authorities in investigating and

² This discussion is intended to reference both state prisons and the state regulated county jails. However, because of the different political and legal status of these facilities, legislative and regulatory remedies will need to be adjusted.

³ As a threshold matter, we note that although the Department of Corrections (DOC or Department) has adopted and revised agency policies and Internal Management Procedures addressing sexual abuse issues since at least 2008. But none of these informal directives have been enshrined in formal regulations having the force of law and available to prisoners and the public. Although there is information about PREA available on the DOC website, such information may not be available to prisoners, on the web or in their handbooks. One might be excused from inferring that this reflects a lack of initiative and prioritization of such issues by the DOC administration

⁴ Goffman 1968

⁵ Although we do not have the time to summarize the implications of this significant aspect of their prison experience, I am enclosing excerpts from a piece developed for the Bonnie Watson Coleman Counting the Costs hearings.

- responding to criminal conduct on the part of prison staff (such as aggravated assault and murder; the widespread thefts of prisoners' property are rarely investigated.)
14. Courts give deference to decisions of prison authorities, even when decisions are made below the level and attention of the Commissioner of Corrections;
 15. The highest level State executive authorities give little attention to prison operations and generally defer to the Commissioner, absent events that reach public, media or legislative attention;
 16. Similarly for legislative attention to prison problems. These hearings, for example were not triggered by routine internal administrative reporting that should have alerted any branch of government to the hidden problems in our prisons;
 17. The federal Department of Justice has not had the resources to investigate and respond to criminal offenses and violations of civil rights in the prisons.
 18. Increasing private profit-making corporations providing "correctional" services discourage or bar criticism, support the status quo in the prisons, and resist changes which serve the interests of prisoners, public workers and the community.

Recommendations

1. **Increasing Transparency and Oversight:**
 - a. Establish a system for the independent community-based oversight of the prison system, supplemented by prison health services oversight,⁶ by the Department of Health and Senior Services; draft legislation available
 - b. Revive the Department of the Public Advocate, with authority to conduct advocacy on behalf of individual and classes of prisoners, and enforce the laws governing the DOC, through negotiation, recourse to the Governor, and judicial action; transfer the office of the Corrections Ombudsman to this new Department;
 - c. Strengthen the enforcement of APA publication laws, by the Department of Corrections, and require Department "internal management documents" to be publicly available;
 - d. Require information about prisoner operations and internal "contested cases" to be systematically gathered, reported to, and tracked by the highest level of the Department.⁷
 - e. Strengthen the Department's monitoring of the county jails and enforcement of (enhanced) state regulations of the jails.
 - f. Require the Department to terminate exploitative contracts with private agencies.
 - g. Require the Department to foster communications and relationships between prison and community groups.

2. **Focusing attention on Women and Families**
 - a. Create the position of Assistant Commissioner for Women and Families, within the DOC;
 - b. Require the development of a statewide plan for women, prisoners developed in cooperation with the Division of Women, women in prison, and community organizations, to include plans for oversight, diversion, placement, rehabilitation, staff training, and preparation for reentry, and a Women's Council within the prison;
 - c. Require demonstrated progress towards the proportional inclusion of women among prison and state level staff;
 - d. Require the Department to enact family - friendly regulations, designed to facilitate increased communication, contact, and healing, between prisoners and their families.

3. **Modeling Justice: accountability, due process, and law and order in the prisons**
 - a. Enact a Bill of Rights for people in prison, incorporating international human rights norms;
 - b. Enhance due process in all prison proceedings in which prisoner claims or grievances are decided, and in all proceedings which impact on liberty interests, such as the institutional remedy system, disciplinary appeal ("courtline") proceedings, classification decisions, and transfers to conditions of increased security;
 - c. Require that the Commissioner make final agency decisions in grievance and disciplinary matters;
 - d. Require the DOC to track and address patterns of prisoner grievances, in order to identify problematic institutions, units, shifts, services and employees, and strengthen monitoring of responses to prisoner grievances;
 - e. Remove the exemption of the DOC from "contested case" reviews by the Office of Administrative Law;
 - f. Enact strict penalties for staff retaliation against prisoners; r require referrals to county prosecutors, for their independent investigation and prosecution, when there is reason to believe that prison staff have broken the law;⁸

⁶ including mental and dental health, senior health, and substance abuse services

⁷ e.g. by authorizing Final Agency Decisions to be made by the Commissioner, rather than individual prison administrators or their designees (Accountability must be prioritized over defensive strategies that attempt to insulate Department authorities from legal responsibility.)

⁸ as is the case for prisoner law violations

- g. Enact strict requirements for Internal Affairs (SID) investigations; require notice to complainants and all parties of investigation results;
 - h. provide meaningful access to the courts, including reasonable access to standard legal materials for all prisoners and meaningful access to experienced properly credentialed paralegal advocates, including prisoners and community volunteers;
 - i. provide opportunities for prisoners to act responsibly and constructively within the prison community by requiring the establishment of democratically chosen prisoner councils with access to prison administrators, the Department, the Public Advocate, the Inspector General and the Community Boards of Visitors;
 - j. require vigorous enforcement and independent external oversight of compliance with laws and regulations governing searches and the disposition of prisoners' property.
 - k. Require education for workers and prisoners on issues that will address racism, misogyny, classism, and the discrimination that is prohibited by New Jersey law.
4. **Improving protection of life, health and safety**
- a. Adopt a statutory zero tolerance and reporting policy for abuse of prisoners, as in the psychiatric hospitals (See, N.J.S.A. 4-15 et seq.)
 - b. Require monitoring and public reporting of the use of solitary confinement, at the institutional and Department levels
 - c. Require the Department to gather information from institutional grievance reports to track complaints and address patterns of institutional problems;
 - d. Similarly, monitor "unusual incidents," such as suicides and other prisoner deaths, SID investigations, medical "outbreaks," etc., to track patterns of institutional problems;
 - e. For the significant population of prisoners with mental illness:
 - i. adopt a modified Patients' Bill of Rights (N.J.S.A. 30:4-23.2) to apply to persons with serious mental illness, developmental disabilities and traumatic brain injuries in the prisons;
 - ii. authorize and require the Division of Mental Health and Guardianship Advocacy to provide protection and advocacy services to those populations in the prison;
 - iii. Facilitate the appropriate psychiatric hospitalization of prisoners with serious mental illness, using community screening services to screen for commitment.

5. **Changing the culture:** The culture of an agency is set by its leadership and its rules. Our challenge is to transform the present prison culture so that it will provide a foundation for supporting the respectful, just, humane and legal conduct that we wish offenders in prison to adopt. To create such a foundation, we suggest that it is necessary to adopt a broad approach of "modeling justice" within the prisons.

Rules for prisoners and staff need to be in place to establish boundaries for the conduct of both. And, as in the community, there need to be penalties for violations of those rules. But we do not recommend adopting the strategy of relying on punitive measures to change either behavior or attitudes and values.

Some components of an alternative approach are intimated by the recommendations in the Modeling Justice section, above, but these only begin the conversation. The following very preliminary list is not prioritized.

- a. Rules for prisoners and staff must be necessary and reasonable for promoting the purposes of imprisonment and the well-being of the prison community;
- b. Enforcement of rules must be fair, and must be perceived as fair; This requires, at least:
 - i. the adoption of additional elements of due process in all decision-making that affects dispute resolution and restrictions on prisoners' liberty;
 - ii. staff accountability for rule violations;
 - iii. fair staff enforcement of rules;
 - iv. severe limitations on staff use of physical force;
- c. Staff conduct and language towards prisoners must model the conduct and language we would have prisoners adopt in the prison and the community. This requires, in turn, that workers receive comparable treatment by supervisors and administration;
- d. Creative educational and clinical strategies must be employed to inspire respectful and humane positive conduct and positive relationships between prisoners and staff, while access to negative (violent, misogynist, racist) television and other media should be barred.

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Jean Ross, Esq.

2009-2010

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1. Families have the potential to significantly support the legitimate core missions of the prison system. They can promote prisoner rehabilitation, improve the culture and the

safety of the prisons, and facilitate effective reentry - thereby benefiting the people who live and work in the prisons, and the community.

2. Conversely, incarcerated parents can be potential resources to their children and other family members. Supporting family continuity during incarceration can not only enhance children's functioning and lower the risks of future institutionalization, but also create a foundation for more successful reentry.

3. The state has a recognized responsibility to promote family stability, and promote and protect in the interests of all children, including the children of incarcerated parents. To fulfill these responsibilities, the Department of Corrections must adopt policies, programs and practices designed to support and maintain prisoners' families, in cooperation with other state and community agencies.

4. Present prison policies, practices and culture are counterproductive to these ends; they create hardship and increase stress on families, by tone, rule and practice, and they exploit families with few financial resources - thereby frustrating rather than promoting family preservation and the welfare of children.

5. To address these deficiencies, the Department must devote specific attention to family issues and adopt policies and practices consistent with its responsibilities and through which families can support each other, and inform and affect Department action, through individual and collective advocacy. Such policies must include greater transparency of institutional and department actions, and proactive notification to families of significant events.

6. These policies and practices must acknowledge and support the functioning of prisoners, themselves, as family members - specifically as parents, children and partners of people in the community.

7. The state must support independent family advocacy and legal services through which families can ensure proper state action by agents of the prison system, and ensure staff training which will enable prison staff to provide effective services to prisoners as family members and to prisoners' families.

8. Legislation can provide the conceptual and structural framework for such changes.

Some examples of some specific legislative Initiatives

1. Create the position of Assistant Commissioner for Women and Families within the DOC;

2. Require the development of a statewide plan for women, developed in cooperation with the Division of Women, women in prison and the community, and community organization, which will include plans for oversight, diversion, placement, rehabilitation, staff training, and preparation for reentry;

3. Require the proportional inclusion of women among prison and state level staff and, specifically, in state and institutional family councils;
4. Establish a corrections ombuds office within the Department of the Public Defender;
5. Prioritize construction to replace the dorm-style medium security units at EMCF, and establish facilities in each region of the state (not in men's prisons!), to confine women prisoners;
6. Track and respond to allegations of mistreatment of women, to ensure that all prison system employees treat women respectfully and professionally.
7. Include family supportive policies and family preservation programs within the legislative mission of the DOC;
8. Require inter-departmental coordination of services to prisoners and their families;
9. Ensure family notification of significant events and crises;
10. Incorporate appropriate family participation in rehabilitation and reentry planning.

**NEW JERSEY SENATE LAW AND PUBLIC SAFETY COMMITTEE
HEARING**

**RE: RAPE AND SEXUAL ABUSE ALLEGATIONS OF WOMEN INMATES
AT THE HANDS OF CORRECTION OFFICERS AND THE
ADMINISTRATOR AT EDNA MAHON CORRECTIONS INSTITUTION FOR
WOMEN**

TESTIMONY BY RICK ROBINSON

NAACP NEWARK, NJ, CRIMINAL JUSTICE CHAIRMAN,

FEBRUARY 22, 2018

STATE BUILDING, TRENTON, NJ

It is horribly unfortunate that we have come to this point in our society, where we are holding legislative discussion about allegations of rape and sexual abuse of women inmates by correction officers and administrative personnel of a state prison facility. It is abundantly clear that restructure is imminent, accountability needs to be designated and professional assistance is warranted to help the victims in this matter.

These allegations, which some has resulted in plea agreements are unspeakable and questions our correctional system's purpose? My only question is how we can allow this to have happened and not initiate contingencies to prevent it from ever happening again. These accusations prove to be detrimental to our integrity, involving New Jersey's criminal justice system, which is mandated for better results on a national scale.

Because these accusations violates the federal standards of PREA, we must move to adequately prosecute and engage in drafting policy, so this can never occur again. We know that these are the 'bad acts' of some and should not be a reflection of all correctional facility personnel, which happens to be salaried by New Jersey tax dollars.

Our focus should end with services to address the traumatic problems of these women, with emphasis on life after rape, sexual abuse and prison. We need to take a hard look at what possibilities are needed in order to have them be productive in our society upon release. Our evaluation should be of a sensitive approach if we plan to help them at all.

Thank you,

Rick Robinson, Criminal Justice Chairman
NAACP Newark, NJ

**ADDITIONAL APPENDIX MATERIALS
SUBMITTED TO THE
SENATE ECONOMIC GROWTH COMMITTEE**

for the

February 22, 2018 Meeting

Submitted by Bonnie Kerness, Program Director, Prison Watch, American Friends Service Committee:

Bonnie Kerness, "OPINION: We're all responsible for sex abuse in prisons," *The Star-Ledger*, February 1, 2017. ©2017 New Jersey On-Line LLC.