

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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LUCY AMADOR, STACIE CALLOWAY, TONIE COGGINS,  
LATASHA DOCKERY, TANYA JONES, BOBBIE KIDD,  
BETTE JEAN MCDONALD, KRISTINA MUEHLEISEN,  
JEANETTE PEREZ, LAURA PULLEN, CORILYNN ROCK,  
DENISE SAFFIOTI, SHENYELL SMITH, HOPE SUSOH,  
and NAKIA THOMPSON, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

– against –

CLASS ACTION  
COMPLAINT

JURY TRIAL  
DEMANDED

DEPARTMENT OF CORRECTIONAL SERVICES (“DOCS”)  
SUPERINTENDENTS ANGINELL ANDREWS,  
ROBERTA COWARD, DENNIS CROWLEY,  
ALEXANDREENA DIXON, ELAINE LORD, RONALD  
MOSCICKI and MELVIN WILLIAMS; DOCS DEPUTY  
SUPERINTENDENT DONALD WOLFE; DOCS  
DIRECTOR OF PERSONNEL TERRY BAXTER; DOCS  
INSPECTOR GENERAL RICHARD ROY; DOCS DIRECTOR  
OF THE SEX CRIMES UNIT OF THE INSPECTOR GENERAL’S  
OFFICE BARBARA D. LEONE, DOCS DIRECTOR OF THE  
BUREAU OF LABOR RELATIONS PETER BROWN; DOCS  
COMMISSIONER GLENN S. GOORD, OFFICE OF MENTAL  
HEALTH COMMISSIONER JAMES STONE, DOCS CORRECTION  
OFFICERS CLARENCE DAVIS, M. EVANS, SERGEANT MICHAEL  
GALBREATH, OFFICERS JOHN E. GILBERT III, LARUE,  
RICO MEYERS, MICHAEL PINQUE, JEFFREY SHAWVER,  
ROBERT SMITH, DELROY THORPE, and PETE ZAWISLAK,

Defendants.

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**PRELIMINARY STATEMENT**

Plaintiffs are women presently or previously confined in the custody of the New York State

Department of Correctional Services (“DOCS”). Defendants include line officers who have engaged in the sexual assault, abuse and harassment of women prisoners, including forcible rape, sexual intercourse, anal intercourse, oral sexual acts, sexual touching, voyeurism, invasion of personal privacy, demeaning sexual comments, and intimidation to deter women prisoners from reporting such sexual misconduct. Defendants also include supervisors in these facilities and at the highest levels of DOCS (“supervisory defendants”) who maintain policies and practices which enable male staff to engage in the sexual assault, abuse, and harassment of women prisoners, despite the known and obvious risks associated with assigning male staff to female prisons and in the face of historical and continued evidence of sexual misconduct by their male staff. Plaintiffs bring this action for injunctive and declaratory relief, and for money damages, to redress defendants’ violations of their rights under the First, Fourth, Eighth and Fourteenth Amendments of the United States Constitution.

### **JURISDICTION AND VENUE**

1. This court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a). Plaintiffs seek declaratory relief pursuant to 28 U.S.C. § 2201. Venue is proper in this district under 28 U.S.C. § 1391(b).

### **PARTIES**

#### **PLAINTIFFS**

2. Plaintiffs Stacie Calloway, Tonie Coggins, Latasha Dockery, Tanya Jones, Bobbie Kidd, Kristina Muehleisen, Laura Pullen, Corilynn Rock, Denise Saffioti, Shenyell Smith, Hope Susoh, and Nakia Thompson are prisoners in DOCS custody and were so at all times referred to in this complaint.

3. Plaintiffs Lucy Amador, Bette Jean McDonald and Jeanette Perez, who are now released from custody, were prisoners in DOCS custody at the times of the incidents of sexual abuse referred to in this

complaint.

CORRECTIONAL STAFF DEFENDANTS

4. The defendants listed below were at all times referred to in this complaint correctional officers or sergeants employed by the Department of Correctional Services, assigned to DOCS-operated women's prisons, and acting under color of state law. These defendants are sued in their individual capacities for compensatory and punitive damages:

a. Officer Clarence Davis, while employed at Albion Correctional Facility, sexually harassed and abused Tonie Coggins, as described in ¶ 41.

b. Officer M. Evans, while employed at Bedford Hills Correctional Facility, sexually harassed and abused Latasha Dockery, as described in ¶ 42.

c. Sergeant Michael Galbreath, while employed at Albion Correctional Facility, sexually harassed and abused Lucy Amador, as described in ¶ 39.

d. Officer John E. Gilbert III, while employed at Albion Correctional Facility, sexually harassed and abused Kristina Muehleisen, as described in ¶ 46; Bette Jean McDonald, as described in ¶ 45; and Corilynn Beth Rock, as described in ¶ 49.

e. Officer Larue, while employed at Albion Correctional Facility, sexually harassed and abused Laura Pullen, as described in ¶ 48.

f. Officer Rico Meyers, while employed at Bedford Hills Correctional Facility, sexually harassed and abused Latasha Dockery, as described in ¶ 42; and Nakia Thompson, as described in ¶ 53.

g. Officer Michael Pinque, while employed at Taconic Correctional Facility, sexually harassed and abused Bette Jean McDonald, as described in ¶ 45.

h. Officer Jeffrey Shawver, while employed at Albion Correctional Facility, sexually harassed and abused Stacie Calloway, as described in ¶ 40; Tanya Jones, as described in paragraph ¶ 43; and Hope Susoh, as described in ¶ 52.

i. Officer Robert Smith, while employed at Albion Correctional Facility, sexually harassed and abused Lucy Amador, as described in ¶ 39.

j. Officer Delroy Thorpe, while employed at Bedford Hills Correctional Facility, sexually harassed and abused Shenyell Smith, as described in ¶ 51.

k. Officer Pete Zawislak, while employed at Bayview Correctional Facility, sexually harassed and abused Jeanette Perez, as described in ¶ 47.

#### SUPERVISORY DEFENDANTS

5. Defendant Donald Wolfe was Deputy Superintendent for Security at Albion Correctional Facility until sometime in calendar year 2000. As Deputy Superintendent for Security, he was responsible for the supervision of staff and inmates to ensure a safe environment, including the enforcement of DOCS rules and regulations; the investigation of many complaints of sexual misconduct by staff, including the decision whether to forward complaints to higher-ranking DOCS officials and to the Inspector General's office; the investigation of and response to complaints of misconduct against staff, in conjunction with the Inspector General's Office; and for decisions concerning the assignment of staff, including whether to remove staff from contact with women prisoners. Despite receiving complaints of sexual misconduct against Officers Gilbert and Shawver, he failed to take action appropriate to address the situation, leaving plaintiffs McDonald and Rock to be abused by Officer Gilbert as described in ¶¶ 45 and 49, below, and leaving plaintiffs Calloway, Jones and Susoh to be abused by Officer Shawver, as described in ¶¶ 40, 43, and 52,

below. Deputy Superintendent Wolfe is sued in his individual capacity for compensatory and punitive damages for his failure to protect these plaintiffs, as set forth in ¶¶ 13-37.

6. Defendants Anginell Andrews, Roberta Coward, Dennis Crowley, Elaine Lord, Ronald Moscicki and Alexandreena Dixon are Superintendents of Albion, Bayview, Beacon, Bedford Hills, Lakeview, and Taconic Correctional Facilities, respectively. Defendant Melvin Williams is the Superintendent of the Willard Drug Treatment Center, a prison for parole violators operated by the Department of Correctional Services. They are responsible at their respective facilities for the assignment and removal of staff; the training of staff; the supervision of staff and inmates to ensure a safe environment, including the enforcement of DOCS rules and regulations; the review of decisions to place women prisoners in punitive or administrative segregation; the investigation of many complaints of sexual misconduct by staff, including the decision whether to forward complaints to higher-ranking DOCS officials and to the Inspector General's office; the investigation of and response to complaints of misconduct against staff, in conjunction with the Inspector General's Office; and the failure to ensure that women prisoners who complain of sexual abuse receive adequate and appropriate mental health treatment. These defendants are sued in their official capacities, for prospective injunctive and declaratory relief for their failure to protect women prisoners from sexual harassment and abuse, as set forth in ¶¶ 13-38.

7. Defendant Terry Baxter is the Director of Personnel for DOCS. He is responsible for the recruitment, retention, movement, and promotion of all correctional staff and, as to probationary employees, their termination. He is sued in his official capacity for prospective injunctive and declaratory relief for the failure to screen, assign and re-assign staff appropriately to prevent the sexual harassment and abuse of women prisoners, as set forth in ¶¶ 13-22, below.

8. Defendant Richard Roy is the Inspector General of the New York State Department of Correctional Services. He is responsible for the investigation of complaints of criminal misconduct or violation of Departmental rules by DOCS employees, including complaints of sexual harassment and abuse; for determining the standards by which such complaints are assessed; for reviewing all investigations of such complaints; for determining whether such complaints are substantiated; and for recommending whether or not action be taken, including referrals to the Bureau of Labor Relations for disciplinary action against staff and referrals of allegations of criminal misconduct to law enforcement officials. He is sued in his official capacity for prospective injunctive and declaratory relief for the failure appropriately to investigate, refer for discipline and, in conjunction with the Superintendents and other DOCS supervisory defendants, take action in response to complaints of sexual harassment and abuse, as set forth in ¶¶ 13-20, 25-37, below.

9. Defendant Barbara D. Leone is the director of the Sex Crimes Unit of the DOCS Inspector General's Office. She is responsible for the investigation of complaints of criminal or Departmental misconduct by DOCS employees, including complaints of sexual harassment and abuse; for determining the standards by which such complaints are assessed; for reviewing all investigations of such complaints; for determining whether such complaints are substantiated; and for recommending whether or not action be taken, including referrals to the Bureau of Labor Relations for disciplinary action against staff and referrals of allegations of criminal misconduct to law enforcement officials. She is sued in her official capacity for prospective injunctive and declaratory relief for the failure appropriately to investigate, refer for discipline and, in conjunction with the Superintendents and other DOCS supervisory defendants, take action in response to complaints of sexual harassment and abuse, as set forth in ¶¶ 13-20, 25-37, below.

10. Defendant Peter Brown is the Director of the Bureau of Labor Relations of DOCS. He is

responsible for deciding whether to pursue disciplinary actions against Departmental staff who are alleged to have violated Departmental rules and regulations, including the commission of acts of sexual misconduct. He is sued in his official capacity for prospective injunctive and declaratory relief for the failure to investigate and discipline staff so as to prevent the sexual harassment and abuse of women prisoners, as set forth in ¶¶ 13-20, 37, below.

11. Defendant Glenn S. Goord is the Commissioner of the New York State Department of Correctional Services. He is responsible for the care, custody and control of all inmates housed in DOCS facilities. He is the chief executive officer of DOCS, responsible, consistent with the legal mandates governing DOCS, for the management and control of all state prisons, and for all matters relating to the selection, training, assignment, placement, promotion, and discipline of the uniformed staff of the prisons where women prisoners are confined. He is responsible, along with the Inspector General, for the system of complaint and investigation of staff misconduct, including sexual harassment and abuse, and for setting the standards by which such complaints are reviewed to determine the actions, if any, to be taken against staff. He is responsible for the policies and practices as set forth below that have resulted in the deprivation of plaintiffs' rights under federal law and has failed to take necessary and appropriate actions to prevent such deprivations. Along with the Commissioner of the Office of Mental Health, named below, defendant Goord is responsible for the provision of mental health services to inmates in his custody. Defendant Goord is sued in his official capacity, for prospective injunctive and declaratory relief for his failure to protect women prisoners from sexual harassment and abuse, as set forth in ¶¶ 13-38.

12. Defendant James J. Stone is the Commissioner of the New York State Office of Mental Health. He is responsible for the operation and administration of programs for the treatment of mentally ill

prisoners confined in New York State prisons. He is sued in his official capacity for prospective and injunctive relief for the failure to provide appropriate and minimally adequate mental health treatment to women prisoners who have complained of sexual harassment and abuse, as described in ¶¶ 13-20, 38, below.

### **FACTUAL ALLEGATIONS**

#### **SUPERVISORY DEFENDANTS KNOW THAT WOMEN PRISONERS ARE AT SUBSTANTIAL RISK OF SEXUAL MISCONDUCT BY DOCS STAFF BUT FAIL TO TAKE NECESSARY AND APPROPRIATE ACTION.**

13. Due to the coercive nature of a prison setting, women prisoners cannot consent to sexual activity with correctional staff. This incapacity to consent is recognized by New York State law. N.Y. Penal Law § 130.05(e).

14. DOCS correctional staff subject women prisoners to recurrent and ongoing acts of sexual misconduct. These include forcible rape, sexual intercourse, anal intercourse, oral sexual acts, sexual touching, voyeurism, invasion of personal privacy, demeaning sexual comments, and intimidation to deter women prisoners from reporting such sexual misconduct.

15. Supervisory defendants are responsible for the care, custody and control of women prisoners, and, through their acts and omissions, supervisory defendants perpetuate the sexual harassment and abuse of women prisoners.

16. Supervisory defendants know that by assigning male staff to female prisons they place women prisoners at substantial risk of experiencing sexual misconduct; that sexual misconduct by staff is ongoing and recurrent; that victims of sexual abuse or harassment in a correctional setting are unlikely to come forward with complaints of such misconduct; and that defendants' policies and practices are grossly



inadequate to prevent and remedy sexual misconduct. Despite the obvious nature of these risks and despite the recurrent incidence of sexual abuse and harassment by male staff of women prisoners, supervisory defendants have failed to take reasonable, necessary and appropriate steps to prevent and remedy such misconduct.

SUPERVISORY DEFENDANTS KNOW THAT WOMEN PRISONERS ARE AT  
SUBSTANTIAL RISK OF SEXUAL MISCONDUCT BY DOCS STAFF.

17. As many as 60-80% of women prisoners were sexually or physically abused prior to their incarceration. These women are at a heightened risk for the recurrence of such abuse and, when subjected to such abuse, they are more vulnerable to its consequences.

18. Supervisory defendants are aware that assigning male staff to guard female prisoners creates obvious risks of sexual activity and that the absolute disparity in power between male staff and women prisoners renders sexual activity between male staff and female prisoners inherently coercive.

a. Awareness of the risk and incidence of sexual abuse in a prison setting has led to the promulgation of international standards prohibiting the assignment of male correctional staff to guard women prisoners. United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 53, adopted Aug. 30, 1955.

b. Awareness of the risk and incidence of sexual abuse in a prison setting led New York State to enact a statute criminalizing any sexual contact between prisoners and correctional staff. *See* N.Y. Penal Law § 130.05(e). In enacting this statute, New York State recognized that correctional staff wields almost absolute power over all aspects of the daily lives of women prisoners so that women frequently believe that they cannot refuse demands for sexual activity.

19. Supervisory defendants are aware of the substantial risk of sexual misconduct by male staff upon women prisoners given DOCS actual experience. On information and belief, DOCS each year receives more than 200 complaints of sexual misconduct and refers about 10 incidents of sexual misconduct by staff for criminal prosecution. Male correctional staff from Albion, Bayview, and Lakeview Correctional Facilities have been convicted of crimes of sexual misconduct within approximately the past year. DOCS had received complaints of sexual misconduct about several of these officers prior to the incidents leading to their arrest. Women prisoners are impregnated by male staff in DOCS prisons with regularity, including three of the plaintiffs named in this complaint. 20. Despite these known risks and incidence of sexual misconduct by staff, supervisory defendants, through their policies and practices, have recklessly disregarded these risks, and have failed to protect the women prisoners in their custody from harm.

SUPERVISORY DEFENDANTS FAIL APPROPRIATELY TO SCREEN, ASSIGN, TRAIN,  
AND SUPERVISE STAFF

21. Supervisory defendants fail to screen staff for employment so as to prevent sexual misconduct by staff. On information and belief, despite the availability of screening tools that are available to identify male staff for psychological tendencies to abuse women, supervisory defendants fail to use such tools either during the initial hiring phase or at any time before or after assigning male staff to work in a women's prison.

22. Supervisory defendants assign male correctional staff to guard women prisoners without adequate safeguards to prevent sexual harassment and abuse.

a. The majority of officers assigned to female prisons are male. Supervisory defendants have made insufficient efforts to hire female staff, to limit the number of male staff assigned to female prisons, or to assign female staff to female prisons.

b. Supervisory defendants have designated virtually no assignments within DOCS women's prisons as female-only posts.

c. Supervisory defendants assign male staff to posts in which they have the opportunity for unmonitored contact with women prisoners. This includes, for example, the assignment of male staff to housing areas by themselves, even during the nighttime hours.

d. Almost without exception, supervisory defendants allow male correctional staff to bid for (choose) their own assignments, without regard to the history or severity of allegations of sexual misconduct received against them.

23. Supervisory defendants fail to ensure the training of staff so as to prevent sexual misconduct by staff.

a. Upon information and belief, the training of staff about issues of sexual misconduct is perfunctory and fails to focus on the special issues of women prisoners, including that a significant proportion are unlikely to report sexual misconduct, are at a heightened risk to experience sexual harassment and abuse, and are particularly vulnerable to its consequences. *See* ¶¶ 17, 26.

b. Upon information and belief, the training of staff fails to emphasize the importance of recognizing signs of sexual misconduct between staff and women prisoners and the importance of reporting such signs to supervisory officials. Staff has not been trained adequately to report such misconduct either when such conduct is observed or when they have reason to believe it has occurred, such as male officers and female inmates observed together in locations where they are not permitted or engaging in behavior suggestive of an inappropriate relationship.

24. Supervisory defendants fail to implement and enforce appropriate supervision by and of its

staff so as to prevent and remedy staff sexual misconduct.

a. Upon information and belief, supervisory defendants have failed to enact adequate rules and policies to protect women prisoners from sexual innuendoes, vulgarity, degrading sexual comments, and propositioning and to enforce those rules and policies that exist. For example, male staff are not disciplined for violating these rules. As a result, such behavior by staff is commonplace, resulting in a hostile and sexualized atmosphere in which sexual harassment and abuse of women prisoners is more likely to occur.

b. Upon information and belief, supervisory defendants have failed to enact appropriate rules and policies to protect the privacy of women prisoners and to enforce those rules and policies that exist, resulting in violations of their privacy. For example, at times male officers watch women in showers and bathroom areas and watch women dress and undress. In addition, even when male staff are supposed to announce their presence in female prisoners' housing areas prior to their entry, they often fail to do so and are not disciplined or reprimanded for such misconduct.

c. Officers engaging in sexual misconduct leave their assigned posts, allow inmates into areas where inmates are not permitted, and engage in obvious behavior that is suggestive of inappropriate relationships. Supervisory defendants have failed to take sufficient action when such activities are observed or to enforce policies intended to identify, address and prohibit these activities.

d. Supervisory defendants often permit officers and staff virtually unfettered access to private, unmonitored areas such as kitchen store rooms, storage closets, slop sink areas, and laundry areas where sexual abuse of women prisoners is more easily accomplished.

e. Supervisory defendants fail to increase the supervision of correctional staff about whom they have received complaints of sexual misconduct by women prisoners. Such staff are still permitted

unmonitored contact with women prisoners, often still with virtually unfettered access to private unmonitored areas and without additional staff being assigned to observe their actions.

SUPERVISORY DEFENDANTS' SYSTEM FOR REPORTING AND INVESTIGATING  
COMPLAINTS OF SEXUAL MISCONDUCT IS GROSSLY INADEQUATE.

25. Supervisory defendants' system for the reporting and investigation of sexual misconduct is grossly inadequate to prevent and remedy ongoing sexual misconduct because it relies almost completely upon women prisoners to come forward and report the misconduct; it deters women prisoners from reporting sexual misconduct; it fails to utilize reasonable and available investigative tools; it is biased; and it fails to take appropriate action against perpetrators if and when women do come forward. The effect of this system is to allow sexual misconduct by staff to continue virtually unabated.

26. Supervisory defendants know that women prisoners are unlikely to come forward with complaints of sexual abuse by staff.

a. Victims of sexual abuse, in general, are unlikely to come forward with complaints of such misconduct, due to embarrassment and humiliation and a fear that such complaints will be greeted with skepticism.

b. These concerns are exacerbated in a correctional setting, where the persons to whom such complaints are to be made are colleagues of the perpetrator(s) of the abuse, putting the victim at risk of retaliation; where complaints of such abuse are not maintained in a confidential fashion; and where there is a well-founded belief by women prisoners that such complaints will be greeted with skepticism, and will not result in any action against the perpetrator.

c. Women prisoners who were subjected to physical or sexual abuse prior to their incarceration,

particularly those who complained to no avail, may face difficult psychological and emotional obstacles in complaining of sexual misconduct while in prison. These women are unlikely to come forward with such complaints while in prison.

27. Supervisory defendants know that, given this reluctance, having a complaint and investigative system that relies primarily on women prisoners to come forward with complaints of sexual abuse is insufficient to prevent and remedy this misconduct. Nonetheless, supervisory defendants rely on such a system and fail to utilize other means to root out sexual misconduct, as set forth at ¶ 32, below.

28. Supervisory defendants do not adequately inform women prisoners of the procedures for reporting sexual misconduct by staff, and indeed provide ambiguous information.

29. Pursuant to supervisory defendants' policies and/or practices, complaints concerning sexual misconduct by staff are not maintained confidentially, deterring women prisoners from coming forward with complaints. If the grievance system is used, other inmates can immediately become aware of the details of the complaint. Because staff do not conduct investigations into complaints of sexual misconduct in a confidential manner, the perpetrators of misconduct or their colleagues learn of the investigations and inflict harassment or retaliation upon women prisoners. When staff promise confidentiality to women prisoners, they often violate their commitment.

30. Supervisory defendants fail to take steps sufficient to protect women prisoners who complain of experiencing sexual misconduct by staff from retaliation or intimidation. These women often remain in the same prison and can even remain in the same housing area as the perpetrator of the misconduct.

31. Pursuant to supervisory defendants' policies and/or practices, women prisoners who complain of sexual misconduct by staff or who are questioned in the course of an investigation are often questioned in

a hostile, demeaning and threatening manner.

32. Supervisory defendants fail to employ obvious measures to reduce the risk of sexual misconduct between staff and women prisoners, such as heightened monitoring of situations indicative of ongoing sexual misconduct or inappropriate relationships, lie detectors, surveillance cameras, electronic recording devices, exit interviews of prisoners on transfer and release, random interviews of staff, and frequent and unannounced rounds by supervisory officials.

33. Supervisory defendants' policies and/or practices treat complaints by women prisoners of sexual misconduct by staff in a systematically biased fashion. An allegation of sexual misconduct based exclusively or primarily on the statement of a woman prisoner will not be given credence, will not be found to be substantiated, and will not result in any action being taken against the staff person, even if credible and even if supported by other witnesses.

a. Supervisory defendants' investigations do not give adequate weight to indicia of sexual misconduct short of physical evidence. Such indicia include staff persons being seen out of place; staff persons allowing inmates into areas where inmates are not permitted; staff persons engaging in behavior suggestive of an inappropriate relationship; and staff giving contradictory statements to investigators.

b. Supervisory defendants' investigations fail to give adequate weight to similar prior complaints of sexual misconduct against the same staff member. Such patterns may include allegations that a staff member has used the same language in propositioning more than one woman prisoner; allegations that an officer has taken more than one woman prisoner to the same location, such as a slop sink area, to engage in sexual abuse; or allegations that an officer has avoided witnesses to the misconduct by engaging in the abuse during the count, when other inmates would be locked into their cells and so could not observe it.

Defendants do not maintain records in a manner so as to make such information readily available, and ignore or dismiss it even when it becomes available to them.

c. Supervisory defendants' investigations fail to give adequate weight to the the credibility of witnesses. Upon information and belief, the investigator assigned to a complaint of sexual misconduct does not even record an assessment of the credibility of the person making the complaint, of the alleged perpetrator or of witnesses.

34. Supervisory defendants' policies and/or practices result in the dismissal of women prisoners' complaints of sexual misconduct as being without basis, despite other indicia of reliability, unless the woman has physical proof of sexual contact, e.g., semen or proof of pregnancy.

a. Supervisory defendants' policies and/or practices cause DOCS investigators to advise women prisoners that if they wish any action to be taken against the perpetrator, they must submit to further, and often more degrading, sexual abuse in order to obtain physical proof. These women are told that they must do this on their own; they are not offered any protection or assistance from any DOCS staff member so as to ensure their personal safety.

b. Supervisory defendants' policies and/or practices allow staff to engage in sexual misconduct virtually without fear of repercussions so long as no physical evidence can be discovered. As a result of these policies and/or practices, staff against whom credible complaints of sexual misconduct have been lodged are not moved away from contact with women prisoners; rather, they are left in a position where they can continue to sexually harass and abuse other women prisoners, exposing other women prisoners to an unnecessarily high risk of sexual misconduct.

35. Under the policies and practices of supervisory defendants, women may be subject to



punishment for reporting sexual harassment by staff, which chills and deters them from reporting, and thereby perpetuates staff misconduct. Women may be charged with disciplinary offenses for having sexual relations with staff, despite the fact that sexual acts by prisoners with staff are involuntary as a matter of state law. Women may also be charged with other disciplinary offenses, such as being out of place, inappropriate conduct with an officer, or making false statements if they are not believed. The result may be placement in disciplinary segregation under harsh, isolating and punitive conditions, including being locked in their cells 23 hours a day and being deprived of their personal property and most prison privileges. Alternatively, they may be placed in administrative segregation under similarly harsh and restrictive conditions. Either placement means the loss of participation in all program and job assignments, as well as drug and alcohol treatment. Alternatively, they may be placed in protective custody, with severe restrictions on both out-of-cell time, movement within the prison, and programming options. Women who make such complaints are often transferred to different prisons, while the perpetrator is permitted to continue working in the same assignment. These transfers may disrupt contact with children and family, and participation in program and job assignments. Because disciplinary history, placement in administrative segregation, and program and job assignments are considered by the merit board and the parole board, a woman who complains about sexual misconduct risks lengthening her incarceration.

36. Supervisory defendants do not consistently conduct investigations into claims of sexual harassment and abuse in a prompt manner, potentially subjecting both the woman who has complained and other women prisoners to continued abuse. Once a woman prisoner notifies defendants that she has been subjected to abuse, weeks can pass before an investigation is begun. Once it is begun, even when unambiguous proof of misconduct is offered, action may not be promptly taken against staff.

37. Upon information and belief, supervisory defendants have structured the investigative system so that a dearth of options are available to protect women prisoners from sexual harassment and abuse. Supervisory defendants have structured the complaint and investigative system so that complaints of sexual misconduct by staff either result in a referral to law enforcement to pursue a criminal charge, based on physical proof of the misconduct such as semen or proof of pregnancy, or, in virtually all other cases, result in no action being taken against the staff member. Staff are not removed from unmonitored contact with women prisoners unless a disciplinary action is brought and sustained. Such actions are almost never initiated in response to complaints of sexual misconduct in the absence of physical evidence. As a result, staff are not removed from contact with women prisoners even when credible complaints of sexual misconduct have been lodged against them.

SUPERVISORY DEFENDANTS FAIL TO PROVIDE NECESSARY OR ADEQUATE MENTAL HEALTH TREATMENT TO WOMEN WHO COMPLAIN OF SEXUAL MISCONDUCT BY DOCS STAFF

38. DOCS has failed to provide minimally adequate mental health care to women who come forward to complain about sexual misconduct by staff.

a. Women prisoners who are subjected to sexual harassment or abuse by male staff experience harmful consequences and require appropriate mental health care. Women with a history of prior sexual or physical abuse, the majority of women prisoners, are at particular risk of severe emotional injury and distress from sexual harassment and abuse by male staff and have a heightened need for appropriate mental health care.

b. When women prisoners come forward to report sexual misconduct by staff in DOCS employ, no mental health treatment is routinely offered.

c. Women prisoners who experience sexual abuse, including those who suffer from post traumatic stress disorder, may require specialized mental health treatment. Although supervisory defendants provide some degree of mental health services to prisoners in DOCS custody, they fail to provide minimally adequate treatment by mental health professionals trained in the treatment of women who have suffered sexual abuse.

d. Although mental health services should be provided in a confidential manner, supervisory defendants do not ensure such privacy. When women prisoners advise mental health staff of sexual abuse and harassment, their complaints are not always maintained confidentially. Mental health staff have notified DOCS officials about the misconduct without providing supportive treatment surrounding the reporting of the abuse.

e. To the extent mental health treatment is provided, supervisory defendants deter women prisoners from seeking it by attaching to it deleterious consequences. A woman prisoner who seeks mental health treatment may be required to be confined in a more secure facility, despite otherwise being classified as a lower security risk. Women who are receiving mental health treatment can, as a result, be denied access to programs, reducing the likelihood of release on parole. In addition, the fact that a woman prisoner has received mental health treatment is made known to the Division of Parole and can be considered by them in determining whether to grant release to a woman prisoner.

**THE NAMED PLAINTIFFS HAVE SUFFERED REPEATED  
AND UNNECESSARY SEXUAL ABUSE**

39. LUCY AMADOR was an inmate in the custody of the Department of Correctional Services

and was released from custody on May 17, 2002.

a. Ms. Amador was confined at Albion Correctional Facility from approximately October 1999 through January 21, 2002.

b. Ms. Amador was assigned to work in C block basement. She also participated voluntarily in programs that were conducted there.

c. Starting in approximately December, 2000, defendant Officer Robert Smith propositioned Ms. Amador sexually, including suggesting that Ms. Amador perform oral sex on him. On various occasions, he squeezed her breasts, touched her buttocks, and kissed her. Then, in May or early June, 2001, he exposed his penis to her.

d. Ms. Amador complained by letter to the Commissioner about Officer Smith's conduct. Staff from the Inspector General's office interviewed Ms. Amador and informed her that without physical evidence it would be very difficult for any action to be taken against Officer Smith.

e. Shortly after this interview, Officer Smith was assigned to work in C block basement, despite Ms. Amador's complaint. He then threatened Ms. Amador and terminated her from her work assignment there. She was no longer called for any of the programs she had been voluntarily participating in C Block basement. She complained to supervisory staff at Albion and then to the Inspector General's office about this.

f. Upon information and belief, supervisory defendants at Albion and staff from the Inspector General's office had received complaints of sexual misconduct by Officer Smith prior to the experiences suffered by Ms. Amador but took no effective action in response.

g. After complaining about the loss of her job and programs, Ms. Amador was reinstated in her

programs, but did not get her job back. Officer Smith's assignment was not changed.

h After Ms. Amador complained about Officer Smith's sexual misconduct, he was assigned on one occasion to her housing area.

i Upon information and belief, Officer Smith received no disciplinary action as a result of Ms. Amador's complaint, and continues to work as a correctional officer at Albion in positions where he has unmonitored contact with women prisoners.

j As a result of the abuse by Officer Smith, Ms. Amador suffered severe psychological and emotional distress including depression and fearfulness of male officers.

k In early December, 2001, defendant Sergeant Michael Galbreath was assigned as area supervisor for the area including K-2, Ms. Amador's housing unit.

l Sgt. Galbreath began spending two to three hours several days each week in K-2, often seeking to watch Ms. Amador. Housing area officers made comments to Ms. Amador noting Sgt. Galbreath's unusual behavior. Despite this, supervisory defendants took no effective action to investigate or end his misconduct.

m At one point during this period, Sgt. Galbreath stroked Ms. Amador's buttocks.

n In late December, 2001, under the guise of investigating a fight, Sgt. Galbreath called Ms. Amador to the Administration Building, took her to a room in the basement and demanded to pat frisk her. He then proceeded to touch her breasts and vaginal area, to press his body against hers from behind, and to force her to participate in oral sexual acts. He then forced her to clean and to drink water, so as to ensure that he had not left any physical evidence.

o Upon returning to her unit, Ms. Amador discovered some semen on her shirt and kept the shirt

as evidence. She had a friend transmit a complaint to the Inspector General's office.

p In January, 2002, Ms. Amador was called to speak with the Inspector General about "closing" her complaint about Officer Smith, presumably due to the lack of physical evidence. At that interview, Ms. Amador provided her shirt with Sgt. Galbreath's semen on it. On information and belief, additional DNA evidence was then discovered in the basement where this abuse occurred.

q Ms. Amador was then placed in protective custody, without any of her belongings, and then transferred to Taconic Correctional Facility where she was also placed in protective custody.

r DOCS officials had received complaints of sexual misconduct about Sgt. Galbreath prior to the abuse experienced by Ms. Amador but took no effective action in response.

s Sgt. Galbreath has been convicted of criminal charges for his sexual misconduct and is no longer in the employ of DOCS.

t Ms. Amador was not offered mental health treatment after she complained to the Inspector General about Sgt. Galbreath.

u At Taconic, Ms. Amador repeatedly requested mental health care. She was suicidal and threatened to kill herself. While in protective custody, she was seen for a few moments a day during rounds by a mental health worker through her cell door. During the next two months, she repeatedly asked to see a psychiatrist. Ms. Amador was never seen by a psychiatrist, and was seen by a psychologist on only two occasions for about five minutes.

v Ms. Amador was sexually abused as a child and an adult and was physically abused as an adult prior to her incarceration.

w As a result of the abuse by Sgt. Galbreath, Ms. Amador has suffered severe psychological and

emotional distress including depression, difficulty sleeping and eating, and bouts of crying.

40 STACIE CALLOWAY is an inmate presently confined at Albion Correctional Facility. a  
From approximately May till December, 1999, while confined at Bedford Hills Correctional Facility, Ms. Calloway was subjected to intercourse, oral sexual acts and other acts of sexual abuse by an officer employed by DOCS. Months after her complaint he was removed from DOCS employ. Ms. Calloway was never informed by the staff of the Inspector General or by other DOCS staff as to what actions, if any, were taken against this officer in response to her complaints. b Ms. Calloway was not offered mental health counseling after this incident.

c In February, 2001, Ms. Calloway, while confined at Albion Correctional Facility, was assigned to work in the mess hall, where defendant Officer Jeffrey Shawver was assigned.

d Officer Shawver repeatedly propositioned Ms. Calloway sexually, and in May, 2001, took her into a room in the back of the mess hall and performed oral sex upon her. He requested that she perform oral sex upon him. In response, she massaged his penis with her hand.

e In June, 2001, following this abuse, Ms. Calloway asked the program committee of Albion to change her program away from the mess hall but she remained assigned there.

f At the end of July, 2001, Ms. Calloway was questioned by staff of the Inspector General's office about Office Shawver. She advised them that Officer Shawver had sexually abused her. She described the room where the misconduct took place, a room to which inmates were not authorized to have access.

g Upon information and belief, Officer Shawver remains assigned to the mess hall at Albion where he has unmonitored contact with women prisoners.

h Upon information and belief, defendant Deputy Superintendent Wolfe had received complaints of sexual misconduct by Officer Shawver prior to the experience suffered by Ms. Calloway, but took no effective action in response.

i Upon information and belief, officials at Albion and staff of the Inspector General's office had received complaints of sexual misconduct by Officer Shawver prior to the experience suffered by Ms. Calloway, including the complaint of Ms. Jones, described at ¶ 43, below, but took no effective action in response.

j Following the abuse she suffered from Officer Shawver, Ms. Calloway requested mental health treatment. She was seen once a month by mental health staff and prescribed sleeping medication, anti-psychotic and anti-depressant medications but received no counseling or additional treatment appropriate to address her sexual abuse.

k Ms. Calloway was sexually and physically abused as a child and as an adult prior to her incarceration.

l As a result of the abuse by Officer Shawver, Ms. Calloway has suffered severe psychological and emotional distress. She has experienced depression, been distrustful, fearful, and disconnected from other people, and has had flashbacks of prior abuse. She also has experienced physical symptoms, including difficulty sleeping and overeating.

41 TONIE COGGINS is an inmate presently confined at Albion Correctional Facility.

a Ms. Coggins arrived at Albion in January, 2000. She was transferred to M block, a reception housing area. Defendant Officer Clarence Davis was assigned to this housing area.

b On February 14, 2000, Officer Davis ordered Ms. Coggins into the laundry room where he



grabbed her, kissed her, fondled her, and, over her clothing, placed his hands on her breasts, buttocks and genital area, and placed his hands inside her pants and touched her vaginal area. Later that day, Officer Davis ordered her to remove her clothing and then watched her in a state of undress. On the next day, in the laundry room, Officer Davis kissed her and touched her breasts, buttocks, and vaginal area under her clothing. Officer Davis also threatened to rape Ms. Coggins when he next returned to the facility in several days.

c Before Officer Davis returned to the facility, Ms. Coggins complained to Albion officials about the abuse.

d Ms. Coggins was moved from this housing area following her complaint to staff and placed in administrative segregation for approximately three days. She then spoke to staff from the Inspector General's office. She was then moved to another general population housing area.

e Officer Davis remains employed as a correctional officer at Albion in assignments where he has unmonitored contact with women prisoners. No disciplinary action was taken against him and Ms. Coggins' complaint was found to be "unsubstantiated."

f Since Ms. Coggins reported this misconduct, Officer Davis has been assigned to her housing area.

g On several occasions when Ms. Coggins has seen Officer Davis since reporting the misconduct, Officer Davis has threatened her and accused her of lying.

h While confined at Albion in disciplinary segregation, Ms. Coggins has been offered cigarettes if she would expose herself.

i In March, 2002, Ms. Coggins was moved back to M-block where the abuse occurred,

causing her to experience flashbacks of the incident. Officer Davis was assigned to that unit on at least one occasion, came to the unit on others, and threatened her. Despite repeated requests by Ms. Coggins to be moved from that unit, Albion officials refused to move her.

j Upon information and belief, officials at Albion and staff from the Inspector General's Office had received complaints of sexual misconduct about Officer Davis prior to his abuse of Ms. Coggins, but took no effective action in response.

k Ms. Coggins was physically abused as an adult prior to her incarceration.

l As a result of the abuse of Officer Davis, Ms. Coggins suffered severe psychological and emotional distress. She has experienced depression, has been afraid to sleep and has experienced nightmares.

42 LATASHA DOCKERY is an inmate presently confined at Bedford Hills Correctional Facility.

a Defendant Officer M. Evans was assigned to Ms. Dockery's housing area on the 11 p.m. to 7 a.m. tour. Beginning in the summer of 2000, Officer Evans subjected Ms. Dockery to repeated oral sexual acts and sexual touching. In December 2001, Officer Evans assaulted Ms. Dockery, requiring her to seek medical attention.

b Ms. Dockery complained to Bedford Hills staff about the abuse she suffered from Officer Evans. Several months later, staff from the Inspector General's office came to meet with her. She informed them of the location of an unauthorized gift he had provided to her.

c Upon information and belief, Officer Evans remains employed at Bedford Hills, assigned to a post in which he has limited contact with prisoners.

d Ms. Dockery was confined on West Wing at Bedford Hills Correctional Facility. From

approximately May to July, 2001, when Officer Meyers was assigned to that housing area, he repeatedly asked Ms. Dockery for sex; frequently attempted to pull back the shower curtain while she was showering; and frequently attempted to view Ms. Dockery while she changed her clothes. e In June, 2002, Officer Meyers was assigned as a recreation officer. While Ms. Dockery was returning to the yard from the lobby drinking fountain, Officer Meyers blocked her path and forcefully grabbed her breasts with both hands.

f Ms. Dockery immediately wrote to officials at Bedford Hills and to the Inspector General's office regarding Officer Meyers' assault. Staff from the Inspector General's office subsequently met with her. However, upon information and belief, no action was taken against Officer Meyers, who continued to be assigned to posts where he had access to Ms. Dockery and where he harassed Ms. Dockery, expressing anger at her for grieving his conduct.

g Upon information and belief, officials from Bedford Hills had received complaints of sexual misconduct by Officer Meyers prior to his abuse of Ms. Dockery but took no effective action in response.

h Upon information and belief, based on allegations of sexual misconduct by other female inmates following the incidents of his abuse of Ms. Dockery, Officer Meyers has been suspended with pay from DOCS.

i Ms. Dockery was sexually abused as a child.

j As a result of the abuse by Officers Evans and Meyers, Ms. Dockery experienced severe psychological and emotional distress.

43 TANYA JONES is an inmate presently confined at Bayview Correctional Facility.

a Ms. Jones was confined at Albion Correctional Facility. While there, she worked in the mess hall from December, 1999 to early July, 2000 and from October, 2000 to February, 2001. In the mess

hall, defendant Officer Jeffrey Shawver subjected her to verbal harassment, sexual propositioning, and unlawful physical contact including kissing and the performance of oral sexual acts.

b In early 2001, Ms. Jones was being seen by a mental health professional to whom she described the sexual abuse she was experiencing. At the same time that the mental health worker told Ms. Jones that she was closing her case so that Ms. Jones would receive no further treatment, the mental health worker reported Ms. Jones' complaints concerning Officer Shawver's misconduct to Albion officials.

c Ms. Jones then complained to Albion officials and to staff from the Inspector General's Office about Officer Shawver's sexual misconduct.

d Officer Shawver remains assigned to the mess hall at Albion where he continues to have unmonitored contact with women prisoners.

e Ms. Jones was threatened and harassed by staff at Albion for months after reporting Officer Shawver's misconduct to Albion officials and staff from the Inspector General's office.

f Upon information and belief, officials at Albion, including Deputy Superintendent Wolfe, and staff of the Inspector General's office had received complaints of sexual misconduct against Officer Shawver prior to the experiences suffered by Ms. Jones, but took no effective action in response.

g Despite her repeated requests for mental health care, Ms. Jones did not again receive mental health services until she was transferred to Bayview Correctional Facility, in February, 2002, almost a year after she suffered the abuse by Officer Shawver.

h Ms. Jones was physically abused as a child and as an adult prior to her incarceration. i  
As a result of the abuse by Officer Shawver, Ms. Jones has experienced severe psychological and emotional distress. She has experienced depression and extreme anxiety, and has experienced difficulties

sleeping.

44 BOBBIE KIDD is an inmate presently confined at Taconic Correctional Facility.

a While confined at Albion Correctional Facility defendant Officer D.A. Schmidt subjected Ms. Kidd to sexual comments and propositioned her to engage in sexual activities.

b On or about August 9, 2001, Officer Schmidt subjected Ms. Kidd to forcible vaginal and anal intercourse.

c Officer Schmidt threatened Ms. Kidd and told her no one would believe her if she reported the sexual assault.

d Ms. Kidd became pregnant as a result of this incident.

e Prior to this incident, Officer Schmidt had subjected Ms. Kidd to sexual comments and had propositioned her to engage in sexual activities.

f Officer Schmidt has been convicted of rape as a result of this incident and is no longer employed by DOCS.

g DOCS officials had received complaints of sexual misconduct against Officer Schmidt prior to the experiences suffered by Ms. Kidd but took no effective action in response.

h After she spoke to the Superintendent, Ms. Kidd, over her objection, was transferred from Albion to Taconic Correctional Facility. She was kept at Taconic even after Officer Schmidt's removal from Albion. As a result, it is very difficult for her to visit with her children, who live in Rochester.

i Ms. Kidd aborted her pregnancy in September, 2001, after her transfer to Taconic.

j Ms. Kidd was sexually abused as a child.

k As a result of the abuse by Officer Schmidt, Ms. Kidd suffered severe physical injuries,

humiliation and severe psychological and emotional distress.

45 BETTE J. MCDONALD was an inmate in the custody of the Department of Correctional Services and was released from custody on May 1, 2002.

a While Ms. McDonald was confined at Albion during November-December, 2000, defendant Officer John E. Gilbert, III propositioned her, kissed her, touched her vaginal area over her clothes and exposed his genitalia to her.

b Officer Gilbert was assigned to Ms. McDonald's housing area on C-block when this sexual misconduct occurred.

c Officer Gilbert's misconduct was glaring and obvious; he was frequently away from his assigned positions; he came into the dormitory area and watched Ms. McDonald undress; he sat on Ms. McDonald's bed; and he took her to places that were not authorized for inmates, including the correctional staff office. Yet supervisory defendants took no effective action to investigate or end his misconduct.

d In January, 2001, Ms. McDonald told staff from the Inspector General's office about Officer Gilbert's misconduct.

e Ms. McDonald was told that her statement to the Inspector General would be confidential. Instead, Officer Gilbert and other Albion staff were made aware of Ms. McDonald's complaint, leading to her being threatened and harassed by staff.

f On May 8, 2001, Ms. McDonald was given a tier III misbehavior report, the most serious level of disciplinary charges, alleging that she made a false statement about these encounters. This misbehavior report was written by staff from the Inspector General's office and co-signed by defendant Barbara Leone.

g On May 24, 2001, Ms. McDonald was found not guilty of these disciplinary charges. That day, she was transferred to Taconic Correctional Facility, despite severe medical problems that made the eight hour bus ride extremely arduous and uncomfortable.

h Officer Gilbert was permitted to continue his employment as a correctional officer in a housing unit at Albion following Ms. McDonald's report of his sexual misconduct.

i Upon information and belief, officials at Albion including Deputy Superintendent Wolfe and staff from the Inspector General's office had received complaints of sexual misconduct against Officer Gilbert prior to the experiences suffered by Ms. McDonald, including the complaint of sexual misconduct by Ms. Muehleisen, described in ¶ 46, below, but took no effective action in response.

j Ms. McDonald was offered not offered mental health treatment following this abuse. k  
Ms. McDonald was confined at Taconic Correctional Facility in the A Block from April 2001 till May 2002.

l Defendant Officer Michael Pinque was assigned to Ms. McDonald's housing unit several times. In addition, even when not assigned there, on numerous occasions he came to visit her and speak with her. During these conversations, Officer Pinque repeatedly asked her if she would have sexual intercourse with him, told her he knew her address upon her release and told her he knew how to get to her house when she was released

m In January, 2002, on a day when Officer Pinque was not assigned to A Block, he saw Ms. McDonald and told her he missed her and would come back to see her.

n A day or two later, when Officer Pinque was not assigned to A Block, he obtained keys to Ms. McDonald's cell, unlocked it and entered it with no legitimate basis during the nighttime. Ms.

McDonald was asleep. Office Pinque then kissed her.

o Ms. McDonald advised Taconic staff and representatives of the Inspector General's office about Officer Pinque's misconduct. During an interview with a captain, he asked Ms. McDonald how far Officer Pinque's tongue was down her throat and if she believed she could have misconstrued Officer Pinque's actions.

p Upon information and belief, other inmates also advised staff from Taconic and the Inspector General's office about Officer Pinque's unauthorized entry into Ms. McDonald's cell. Officer Pinque's unauthorized presence on the unit was also confirmed by DOCS staff.

q. After Officer Pinque's unauthorized entry into Ms. McDonald's cell and sexual touching of her, he was assigned to her housing area on several occasions and continued to visit her housing area even when not assigned there. During these encounters, Officer Pinque touched Ms. McDonald's buttocks and touched her breasts, offered to rent her an apartment upon her release, told her that he would pay her additional money when they had sexual relations, and told her that he would rape her. Officer Pinque also threatened her, telling her, for example, that she had "better play along" with him when she was questioned by the Inspector General or other staff about her complaint.

r Despite the substantial corroboration of Officer Pinque's misconduct, supervisory defendants failed to take effective action. On information and belief, he remains assigned to housing areas at Taconic where he continues to have unmonitored contact with women prisoners.

s Ms. McDonald was not offered mental health treatment after the abuse by Officer Pinque.

t Ms. McDonald was sexually abused as a child.

u As a result of the abuse by Officers Gilbert and Pinque, Ms. McDonald suffered severe



psychological and emotional distress. She experienced severe anxiety, an enhanced fear of men, distrustfulness, embarrassment, humiliation and a feeling of belittlement. After the incident in mid-January, 2002, when Ms. McDonald woke to find Officer Pinque in her cell, she experienced severe nightmares of Officer Pinque, and/or the person who molested her during her youth, raping her. She has often awakened screaming and in cold sweats.

46 KRISTINA MUEHLEISEN is an inmate presently confined at Albion Correctional Facility.

a Ms. Muehleisen was confined at Albion in C Block from December, 1999 to July 2000. Defendant Officer John E. Gilbert III was often assigned as her housing area officer.

b During late January and early February, 2000, Ms. Muehleisen was approached on several occasions by Officer Gilbert in her housing area when she was getting undressed. Officer Gilbert repeatedly made sexually provocative comments to her and propositioned her, repeatedly asking her to go to the basement with him, and telling her that he would like to have her perform oral sex on him.

c On two occasions within approximately a week, in late January and early February, 2000, Officer Gilbert directed Ms. Muehleisen to the C-block basement at around 9:30 to 10:30 p.m, times when the basement is usually closed. On one occasion, he touched her shoulder, unlocked a closet, and motioned for her to enter. She saw a mattress on the floor inside. She ran back upstairs. On the other occasion Officer Gilbert gave Ms. Muehleisen a direct order to go with him down to the basement. He took her to a room in the basement where he tried to force her to perform oral sex upon him. Ms. Muehleisen ran away.

d After these incidents, Ms. Muehleisen wrote Sgt. Bailey and defendant Deputy Superintendent for Security Wolfe, regarding Officer Gilbert's actions and regarding the closet in the basement. The day after Ms. Muehleisen wrote to him, Deputy Superintendent Wolfe discovered a mattress and other items in

the closet. Later that week, Deputy Superintendent Wolfe met with Ms. Muehleisen and told her to keep note of any inappropriate conduct by Officer Gilbert.

e After Ms. Muehleisen's complaint and the discovery of these items in the basement, Officer Gilbert continued to be assigned to C Block and to have unmonitored contact with women prisoners.

f In early April, 2000, Ms. Muehleisen was called to meet with staff from the Inspector General's office. Officer Gilbert approached her and threatened her, telling her that she should tell them nothing happened, if she did not want to get hurt.

g Despite the threat from Officer Gilbert, Ms. Muehleisen told the staff from the Inspector General's Office what had happened.

h Ms. Muehleisen remained in C-block under Officer Gilbert's supervision until July 2000.

i Officer Gilbert continues to work as a correctional officer assigned to women's housing areas at Albion.

j Ms. Muehleisen was not offered any mental health care as a result of these experiences.

k Ms. Muehleisen was sexually abused both as a child and as an adult prior to her incarceration.

l As a result of Officer Gilbert's abuse, Ms. Muehleisen suffered severe psychological and emotional distress. She has experienced difficulty sleeping and is extremely fearful, particularly when an unknown male officer is assigned to her housing area.

47 JEANETTE PEREZ was an inmate in DOCS custody and was released from custody on November 22, 2002.

a While she was confined at Bayview Correctional Facility, during the years 1999-2001, defendant Officer Pete Zawislak subjected Ms. Perez to sexual abuse, including repeated acts of sexual

intercourse and oral sexual acts.

b Other correction officers and sergeants facilitated this sexual relationship by allowing Officer Zawislak onto her housing area and into her room when he was not assigned there. Yet despite the glaring and obvious nature of this relationship, supervisory defendants took no effective action to investigate and end this misconduct.

c Ms. Perez sought to end the relationship, but Officer Zawislak prevented her from doing so through threats and violent acts.

d Ms. Perez became pregnant and has had a child by Officer Zawislak.

e Ms. Perez advised DOCS officials about the abuse she had experienced from Officer Zawislak once she was transferred to Beacon Correctional Facility.

f Ms. Perez received a tier III disciplinary infraction for a “sex offense,” and was sentenced to 24 months in disciplinary segregation and 12 months loss of good time for this sexual involvement. Ms. Perez was told that if she came forward with the name of the officer with whom she had been involved, she would be released from disciplinary confinement and allowed to keep her baby in the facility nursery. She complied and was moved to the Regional Medical Unit, where she was continued in keeplock status for approximately two additional weeks.

g Although Ms. Perez' pregnancy had been confirmed and although she gave the officer's name to staff from the Inspector General's office in May, 2001, Officer Zawislak was allowed to continue his employment, including unmonitored contact with women inmates, at Bayview through the end of July, 2001. Upon information and belief he was permitted to continue his employment until this date so that he would be eligible to receive his pension.

h Criminal charges were lodged against Officer Zawislak and he has been convicted of a felony for his sexual misconduct. He is no longer employed by DOCS.

i Although she was offered mental health treatment, Ms. Perez was afraid to admit a need for such services due to the potential repercussions on her ability to remain in the nursery.

j Ms. Perez was sexually and physically abused as a child.

k As a result of the abuse by Officer Zawislak, Ms. Perez has suffered severe psychological and emotional distress. She has experienced depression, nightmares, difficulty sleeping, extreme nervousness and an enhanced fear of men.

48 LAURA PULLEN is an inmate presently confined at Albion Correctional Facility.

a From approximately March, 2001 through the fall of 2002, Ms. Pullen was held in keeplock status in B Block. Defendant Officer Larue was regularly assigned to this area.

b Beginning during the summer of 2001 and continuing over the course of approximately one year, Officer Larue repeatedly observed Ms. Pullen in a state of undress, repeatedly touched her breasts and vaginal area, and repeatedly directed that Ms. Pullen expose her body and perform naked for himself and for other officers.

c Ms. Pullen wrote to the Inspector General regarding Officer Larue's misconduct, but received no response. Several months later Ms. Pullen again contacted the Inspector General's office, and subsequently met with staff from the Inspector General's Office and reported Officer Larue's misconduct.

d Ms. Pullen also advised her mental health professional about the abuse she was experiencing from Officer Larue. Her mental health worker informed Ms. Pullen that Ms. Pullen was required to report the misconduct to the Inspector General's Office.

e Ms. Pullen remained under Officer Larue's supervision for months following her meeting with staff from the Inspector General's office.

f Upon information and belief, including statements made to Ms. Pullen by staff from the Inspector General's office, the Inspector General's office had received complaints of sexual misconduct by Officer Larue prior to the abuse Ms. Pullen experienced, but took no effective action in response.

g Officer Larue continues to be employed at Albion, and continues to have unmonitored contact with women prisoners.

h Ms. Pullen was sexually and physically abused as a child.

i As a result of the abuse by Officer Larue, Ms. Pullen suffered severe psychological and emotional distress. She has experienced depression, feelings of humiliation and fear of retaliation.

49 CORILYNN BETH ROCK is an inmate currently confined at Bedford Hills Correctional Facility.

a Ms. Rock was confined in C-block at Albion Correctional Facility from January to May, 2001.

b During this time, defendant Officer John E. Gilbert III was assigned to her housing area.

c From approximately January 29, 2001 to May 30, 2001, defendant Officer John Gilbert subjected Ms. Rock to sexual abuse, including sexual intercourse.

d Officer Gilbert impregnated Ms. Rock. On August 17, 2001, Ms. Rock experienced a miscarriage.

e Officer Gilbert was routinely away from his assigned duties and took Ms. Rock to areas, such as the staff bathroom, where inmates are not ordinarily allowed. Despite such glaring and obvious

misconduct, supervisory defendants failed to take steps to investigate and end this abuse.

f An investigation was conducted by Albion officials and staff of the Inspector General's office into allegations of misconduct by Officer Gilbert.

g During this investigation into Officer Gilbert's misconduct by Albion officials and by staff of the Inspector General's office, Ms. Rock was subjected to demeaning statements, including comments about her supposed sexual activities prior to her incarceration. She was threatened, including a threat that her parole date would be delayed. She was subjected to an intrusive strip frisk of her entire body and photographs were taken of her in her bra and panties. Several staff persons made comments to her about the investigation.

h After her initial questioning by Albion staff about Officer Gilbert's misconduct, Ms. Rock received a disciplinary infraction for being out of place while talking to Officer Gilbert and was placed in punitive segregation for approximately three days. Ms. Rock was then placed in administrative segregation for three weeks, until her release from DOCS custody on June 19, 2001. She was told by staff of the Inspector General's office that she was placed in administrative segregation so that Officer Gilbert, or his friends, could not harm her.

i Upon information and belief, Albion officials and staff of the Inspector General's office had received complaints of sexual misconduct by Officer Gilbert prior to the misconduct experienced by Ms. Rock, including the complaints of sexual misconduct by Ms. McDonald and Ms. Muehleisen, described in ¶¶ 45 and 46, above, but took no effective action in response.

j Upon information and belief, defendant Deputy Superintendent Wolfe had received complaints of sexual misconduct against Officer Gilbert prior to the experiences suffered by Ms. Rock, including the

complaint by Ms. Muehleisen described in ¶ 46, above, but took no effective action in response.

k Ms. Rock was told by staff of the Inspector General's office that they had received statements by other officers that Officer Gilbert and Ms. Rock were seen in places where inmates and staff are not allowed to be together.

l Ms. Rock was told that despite this corroborating evidence of Officer Gilbert's misconduct, no disciplinary action would be taken by the Inspector General's office against Officer Gilbert without physical evidence, i.e., semen or DNA. Without it, according to statements made by staff of the Inspector General's office to Ms. Rock, there was "insufficient proof" for action to be taken against him.

m Officer Gilbert is currently working as a correctional officer at Albion, assigned to housing areas where he continues to have unmonitored contact with women prisoners.

n Ms. Rock was physically abused as a child and as an adult prior to her incarceration

o As a result of the abuse by Officer Gilbert, Ms. Rock experienced severe psychological and emotional distress. She felt humiliated and she experienced an enhanced fearfulness of men.

50 DENISE SAFFIOTI is an inmate in DOCS custody currently confined at Taconic Correctional Facility.

a In April, 2002, while Ms. Saffioti was confined at the Willard Drug Treatment Center, she was subjected to sexual propositioning, verbal harassment and sexual assaults on several occasions by defendant Drill Instructor Officer Andrew Bemby.

b In early April, 2002, Officer Bemby asked Ms. Saffioti to engage in sexual activity with him. Ms. Saffioti filed a complaint with the administration about this verbal harassment. Ms. Saffioti did not receive a response to this complaint.

c Thereafter, Officer Bembry, although not assigned to her unit, came to Ms. Saffioti's cell on several occasions. On information and belief, he was observed by staff in her cell, including on one occasion when she was in her pajamas. On one of these occasions, Officer Bembry entered Ms. Saffioti's cell, placed his hand under her pajama pants, and inserted his finger into her vagina

d On April 30, 2002, Officer Bembry ordered Ms. Saffioti to accompany him on a smoke break from her program assignment. Officer Bembry then took Ms. Saffioti to the basement of the school building, an area in which inmates were not authorized. There, Officer Bembry grabbed Ms. Saffioti's hair and pulled her down onto his penis, forcing her to perform oral sex upon him. Ms. Saffioti and Officer Bembry were observed by a sergeant leaving this unauthorized area. That evening Ms. Saffioti wrote a letter to the Superintendent reporting that she had been forced to perform oral sex upon Officer Bembry.

e The next day, May 1, 2002, Ms. Saffioti was called to the Superintendent's office. She described the abuse she had experienced to the Superintendent.

f Two days later, Ms. Saffioti was told by her counselor that the Superintendent had overridden a decision to continue her placement at Willard. As placement at Willard was a condition of her parole, Ms. Saffioti's removal from Willard resulted in her being violated on parole and facing a parole revocation hearing where she risked being sentenced to her maximum term of incarceration.

g Despite Ms. Saffioti's complaint and the other corroborating observations described above, supervisory defendants took no effective action to investigate and end the misconduct engaged in by Officer Bembry. Upon information and belief, Officer Bembry is still employed by DOCS at the Willard Drug Treatment Center where he continues to have unmonitored contact with women prisoners.

h Upon information and belief, including statements made to Ms. Saffioti by staff of the Inspector



General's office, officials in DOCS had received complaints of sexual misconduct committed by Officer Bemby prior to the abuse experienced by Ms. Saffioti, but had taken no effective action in response.

i After reporting Officer Bemby's sexual assault, Ms. Saffioti was not offered mental health treatment.

j As a result of the abuse by Officer Bemby, Ms. Saffioti has experienced humiliation severe psychological and emotional distress, humiliation and embarrassment as well as physical distress.

51 SHENYELL SMITH is an inmate in DOCS custody currently confined at Bedford Hills Correctional Facility.

a In November, 2000, Ms. Smith was moved to the honor block at Bedford Hills, a housing area for prisoners with excellent disciplinary records, the residents of which are allowed privileges not available to the rest of the prison population.

b Within weeks of her confinement there, defendant Officer Delroy Thorpe began asking her personal questions and making comments about her appearance. These comments continued intermittently for months. At the same time, Officer Thorpe threatened and intimidated Ms. Smith, telling her that the honor block was "his" unit, that he was the "man in control," and that if she didn't comply with his requests, she would end up in trouble.

c In September, 2001, Officer Thorpe asked Ms. Smith how she would feel about becoming involved with an officer. Although Ms. Smith rejected his advances. Officer Thorpe advised Ms. Smith that no inmate "tells him no."

d During September-November, 2001, Officer Thorpe sexually abused Ms. Smith on numerous occasions, including as follows:

i0 In the beginning of October, 2001, Officer Thorpe felt her breasts through her clothes, telling her how "soft" her body was.

ii0 At the end of October, 2001, while Ms. Smith was cleaning the kitchen area during the count, Officer Thorpe forcibly raped and sodomized Ms. Smith, making her perform oral sexual acts upon him, and subjected her to anal and vaginal intercourse.

iii0 On November 12, 2001, Officer Thorpe ordered Ms. Smith to return to honor block during the count. Thereafter, he put his hand underneath Ms. Smith's underwear and touched her vagina. Despite repeated requests by Ms. Smith that he stop, he refused to do so, stopping only when other staff came onto the unit.

e Officer Thorpe threatened Ms. Smith with punishment and with removal from the honor floor if she rejected his advances. He assured her that no one would believe her complaints against his denials.

f Within a day or two of the rape, on approximately October 31, 2001, Ms. Smith advised the medical department at Bedford Hills that her vaginal and rectal areas were in pain.

g Officer Thorpe told Ms. Smith that he had been told that she had been seen crying in the mess hall. He threatened Ms. Smith and ordered her not to tell anyone about his sexual misconduct. Officer Thorpe began harrasing Ms. Smith including locking her into her cell and refusing to let her out.

h On November 29, 2001, Ms. Smith wrote the Superintendent and her counselor at the Family Violence Program that she had been sexually harassed and assaulted by Officer Thorpe. Ms. Smith received no response from Superintendent Lord. On December 6, 2001, she again wrote the Superintendent, describing the rape she had suffered. On December 7, 2001, Ms. Smith met with her family violence counselor and described the sexual assault and harassment she had experienced from Officer

Thorpe. In early December, 2001, Ms. Smith also advised a captain at Bedford Hills about the sexual assault and harassment she had experienced from Officer Thorpe.

i. On approximately December 7 or 8, 2001, Ms. Smith spoke with staff from the Inspector General's office and informed them of the sexual assault and harassment she had experienced.

j. Ms. Smith remained on the honor block under Officer Thorpe's supervision for almost a month after she complained to staff of the Inspector General's office about his abuse.

k. Upon information and belief, including statements made by staff of the Inspector General's office, supervisory defendants had received complaints of sexual misconduct by Officer Thorpe prior to the abuse experienced by Ms. Smith but took no effective action in response.

l. Upon information and belief, Officer Thorpe continues to be assigned to the honor block at Bedford Hills and continues to have unmonitored contact with women prisoners.

m. Since experiencing the sexual abuse by Officer Thorpe, Ms. Smith has suffered severe psychological and emotional distress. She has felt "dirty," humiliated and embarrassed. She has experienced anxiety, including periods of uncontrolled shaking and depression, and thoughts of suicide. She has had difficulty sleeping, experiencing nightmares and flashbacks.

n. Ms. Smith was physically abused as a child and as an adult prior to her incarceration.

52. HOPE SUSOH is an inmate currently confined at Albion Correctional Facility

a. Ms. Susoh was confined at Albion and assigned to work in the mess hall from the summer of 2000 to the spring of 2001.

b. Defendant Officer Jeffrey Shawver was assigned to the mess hall and supervised Ms. Susoh in her work.

c. Officer Shawver made sexual and degrading comments to Ms. Susoh and propositioned her to engage in sexual activities.

d. On three occasions between approximately November 2000 and January 2001, Officer Shawver performed oral sex on Ms. Susoh.

e. Officer Shawver threatened Ms. Susoh with disciplinary infractions and loss of programming if she reported the sexual abuse.

f. In May, 2001, Ms. Susoh wrote to the Inspector General's office in Albany about the sexual abuse she had experienced from Officer Shawver. She never received a response to this letter.

g. Upon information and belief, officials at Albion and staff from the Inspector General's office had received complaints of sexual misconduct by Officer Shawver, including the complaint by Ms. Jones described at ¶ 43, above, prior to the misconduct experienced by Ms. Susoh but took no effective action in response.

h. Upon information and belief, defendant Deputy Superintendent Wolfe had received complaints of sexual misconduct by Officer Shawver prior to the misconduct experienced by Ms. Susoh but took no effective action in response.

i. Officer Shawver remains employed as an officer assigned to the mess hall at Albion where he has unmonitored contact with women prisoners.

j. Ms. Susoh was not offered mental health treatment after her experiences with Officer Shawver.

k. Ms. Susoh was physically and sexually abused as an adult prior to her incarceration.

l. As a result of the abuse by Officer Shawver, Ms. Susoh experienced severe emotional and

psychological distress. She felt ashamed and violated and began to exhibit symptoms of an eating disorder.

53. NAKIA THOMPSON is an inmate presently confined at Bedford Hills Correctional Facility.

a. Defendant Officer Rico Meyers was assigned to the 7 a.m. to 3 p.m. shift in the West Wing, where Ms. Thompson was housed.

b. From January until May, 2002 Officer Meyers subjected Ms. Thompson to anal, oral, and vaginal intercourse on numerous occasions. These encounters took place in the officer's station at the end of Ms. Thompson's cell block during the count.

c. Upon information and belief, other correction officers were aware of Officer Meyers' inappropriate relationship with Ms. Thompson, having observed her cell door open during the count in violation of facility policy. Upon information and belief, other prisoners complained to DOCS staff about Officer Meyers' treatment of Ms. Thompson. Supervisory defendants failed to take effective action in response.

d. Officer Meyers was subsequently assigned to other locations at Bedford Hills. He continued to sexually abuse Ms. Thompson in these other locations, kissing and touching her. He ordered Ms. Thompson to meet him and threatened her, in order to gain her cooperation with his sexual advances.

e. In late June or early July, 2002, Ms. Thompson wrote to the Inspector General about Officer Meyers' continuing behavior. Weeks later, Ms. Thompson met with staff of the Inspector General's office, described her experience, and provided evidence including a money order and ring given to her by Officer Meyers. She also reported that one of her family member's telephone number could be found in Officer Meyers' address book.

f. Upon information and belief, Ms. Thompson's information regarding the telephone number

was confirmed and Officer Meyers was suspended with pay.

g. Since reporting Officer Meyers' misconduct, Ms. Thompson has been subjected to verbal abuse, threats and false disciplinary charges by other staff at Bedford Hills.

h. Despite repeated requests by Ms. Thompson and her family to have her moved from Bedford Hills to avoid this continued abuse, Ms. Thompson remains held at Bedford Hills.

i. Upon information and belief, officials at Bedford Hills and staff from the Inspector General's office had received complaints of sexual misconduct by Officer Meyers prior to the abuse of Ms. Thompson but took no effective action in response.

j. As a result of the abuse by Officer Meyers, Ms. Thompson has suffered severe emotional and psychological distress. She has experienced nightmares, has had difficulty sleeping, and has experienced depression and fear of retaliation.

#### CLASS ACTION ALLEGATIONS

54. Plaintiffs Stacie Calloway, Tonie Coggins, Latasha Dockery, Tanya Jones, Bobbie Kidd, Kristina Muehleisen, Laura Pullen, Corilynn Rock, Denise Saffioti, Shenyell Smith, Hope Susoh, and Nakia Thompson bring this action on behalf of all women prisoners in DOCS custody. This action is brought pursuant to the Federal Rules of Civil Procedure, Rules 23(a), (b)(1), and (b)(2). The class meets the requirements of Rule 23 as follows:

a. There are approximately 3000 women prisoners at any one time confined in DOCS women's prisons, Albion, Bayview, Bedford Hills, Camp Beacon, Lakeview and Taconic Correctional Facilities and the Willard Drug Treatment Center, who are subject to the risk of sexual abuse or harassment. The membership of the class continually changes, rendering joinder of all members impracticable. On

information and belief, hundreds of complaints of sexual harassment and abuse are filed each year. Many more incidents go unreported.

b. The questions of law and fact presented by the named plaintiffs are common to all members of the class, and include whether supervisory defendants' policies and practices subject women prisoners in DOCS custody to a substantial and unreasonable risk and experience of sexual harassment, abuse and assault by male staff. These policies and practices include whether the assignment of male officers to guard women prisoners, at times as the only officers assigned and particularly in women prisoners' housing areas and during the nighttime hours, creates an unreasonable risk of sexual misconduct and leads to recurrent and ongoing invasions of privacy; whether appropriate screening is conducted to avoid assignment to women's prisons of those male staff persons likely to abuse women prisoners; whether appropriate training of staff is provided concerning sexual misconduct and staff's responsibility to report it when observed or when they have reason to believe it has occurred; whether staff is supervised adequately in DOCS facilities to prevent sexual misconduct; whether an available, consistent and confidential complaint mechanism for complaints of sexual misconduct is provided which allows women prisoners to come forward with complaints of sexual misconduct safely and without fear of retaliation; whether complaints of sexual misconduct by staff are adequately investigated; whether appropriate action is taken against staff about whom complaints of sexual misconduct have been lodged, including by removing them from the opportunity to have unsupervised contact with women prisoners; and whether appropriate and adequate mental health treatment by professionals trained in sexual abuse and trauma is offered and provided to women prisoners who have been subjected to such misconduct. As a result every woman confined in these institutions risks being subjected to these unlawful practices. The claims and practices alleged in this complaint are common to all

members of the class.

c. The violations suffered by the named plaintiffs are typical of those suffered by the class. The entire plaintiff class will benefit from the injunctive and declaratory relief sought.

d. Plaintiffs Stacie Calloway, Tonie Coggins, Latasha Dockery, Tanya Jones, Bobbie Kidd, Kristina Muehleisen, Laura Pullen, Corilynn Rock, Denise Saffioti, Shenyell Smith, Hope Susoh, and Nakia Thompson are presently incarcerated within institutions operated by DOCS. These named plaintiffs will fairly and adequately protect the interests of the class.

e. The Legal Aid Society, Prisoners' Rights Project, counsel for plaintiffs, is a legal services organization experienced in prisoners' civil rights litigation. Through prior litigation, the Prisoners' Rights Project has secured court-ordered institutional reform within several prisons operated by the Department of Correctional Services, as well as within the New York City jails. *See e.g., Todaro v. Coughlin*, 74 Civ. 4581, Stipulation and Order: Second Modified Judgment, (S.D.N.Y. October, 1993) (medical order involving Bedford Hills, DOCS maximum security female prison); *Milburn v. Coughlin*, 79 Civ. 5077, Stipulation for Entry of Modified Final Judgment by Consent (S.D.N.Y. September, 1991) (medical order involving DOCS Green Haven Correctional Facility); *Santiago v. Miles*, 774 F. Supp. 775 (W.D.N.Y. 1991) (race discrimination found in jobs, housing and discipline at DOCS Elmira Correctional Facility); *Benjamin v. Fraser*, 264 F.3d 175 (2d. Cir. 2001) (affirming injunctions reforming restraint and counsel visiting practices in New York City jails); *Handberry v. Thompson*, 92 F.Supp.2d. 244 (S.D.N.Y. 2000), 219 F.Supp.2d 525 (S.D.N.Y. 2002) (requiring educational services in New York City jails); *Sheppard v. Phoenix*, 210 F.Supp.2d 450 (S.D.N.Y. 2002) (finding that injunction had eliminated excessive force in New York City jails).



f. The defendants have acted, or failed to act, on grounds generally applicable to the class, thereby making appropriate injunctive relief with respect to the class as a whole.

## **CLAIMS FOR RELIEF**

### **CLAIMS ON BEHALF OF THE PLAINTIFF CLASS**

#### **FIRST CAUSE OF ACTION**

##### **Cruel and Unusual Punishment**

55. Supervisory defendants, through their policies, practices, acts and omissions exhibit deliberate indifference to the sexual harassment and abuse of the plaintiff class of women prisoners, in violation of the right of these women to be free from cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

56. Supervisory defendants, through their policies, practices, acts and omissions subject the plaintiff class of women prisoners to the unnecessary and wanton infliction of pain, and emotional and physical injury in violation of the Eighth Amendment of the United States Constitution.

57. With deliberate indifference to the substantial risk of serious harm to the plaintiff class, supervisory defendants fail appropriately to train, assign, and supervise staff, subjecting the plaintiff class to sexual abuse and harassment by staff, to retaliation for reporting staff sexual misconduct, to verbal abuse, and to violations of privacy in violation of the Eighth Amendment of the United States Constitution.

58. With deliberate indifference to the substantial risk of serious harm to the plaintiff class, supervisory defendants fail appropriately to investigate and act upon complaints of sexual misconduct, subjecting the plaintiff class to sexual abuse and harassment by staff, to retaliation for reporting staff sexual misconduct, to verbal abuse, and to violations of privacy in violation of the Eighth Amendment of the United

States Constitution.

59. With deliberate indifference to the substantial risk of serious harm to the plaintiff class, supervisory defendants fail to offer and provide adequate mental health treatment to women who report sexual harassment, abuse and trauma, subjecting the plaintiff class to serious emotional and mental injury in violation of the Eighth Amendment of the United States Constitution.

## **SECOND CAUSE OF ACTION**

### **Violations of the Right to Be Free From Sexual Abuse and Harassment and of the Right to Bodily Integrity and Privacy Without Due Process of Law**

60. By their policies, practices and acts, supervisory defendants deprive plaintiffs of their right to be free from sexual abuse and harassment and of their rights to bodily integrity and privacy, without due process of law, in violation of the Fourth and Fourteenth Amendments of the United States Constitution.

## **THIRD CAUSE OF ACTION**

### **Violations of the Right to Freedom of Speech**

61. Supervisory defendants, through their policies, practices and acts, subject the plaintiff class of women prisoners to retaliation for reporting staff sexual misconduct, in violation of their rights to freedom of speech and to seek the redress of grievances under the First and Fourteenth Amendments to the United States Constitution.

### **NAMED PLAINTIFFS' INDIVIDUAL CLAIMS FOR DAMAGES**

62. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 39, above, plaintiff Lucy Amador seeks compensatory and punitive damages against defendant Sergeant

Michael Galbreath in amounts to be determined.

63. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 39, above, plaintiff Lucy Amador seeks compensatory and punitive damages against defendant Officer Robert Smith in amounts to be determined.

64. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, and for violations of her right to privacy and bodily integrity as set forth in ¶ 40, above, plaintiff Stacie Calloway seeks compensatory and punitive damages against defendants Officer Jeffrey Shawver and Deputy Superintendent Wolfe in amounts to be determined.

65. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 41, above, plaintiff Tonie Coggins seeks compensatory and punitive damages against defendant Officer Clarence Davis in amounts to be determined.

66. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, excessive force, and for violations of her right to privacy and bodily integrity as set forth in ¶ 42, above, plaintiff Latasha Dockery seeks compensatory and punitive damages against defendant Officer M. Evans in amounts to be determined.

67. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 42, above, plaintiff Latasha Dockery seeks compensatory and punitive damages against defendant Officer Rico Meyers in amounts to be determined.

68. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, and for violations of her right to privacy and bodily integrity as set forth in ¶ 43, above, plaintiff Tanya Jones seeks compensatory and punitive damages against defendants Officer Jeffrey Shawver and Deputy Superintendent Wolfe in amounts to be determined.

69. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, false disciplinary charges, and for violations of her right to privacy and bodily integrity as set forth in ¶ 45, above, plaintiff Bette Jean McDonald seeks compensatory and punitive damages against defendants Officer John Gilbert III and Deputy Superintendent Wolfe in amounts to be determined.

70. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 45, above, plaintiff Bette Jean McDonald seeks compensatory and punitive damages against defendant Officer Michael Pinque in amounts to be determined.

71. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 46, above, plaintiff Kristina Muehleisen seeks compensatory and punitive damages against defendants Officer John Gilbert III in amounts to be determined.

72. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, excessive force, and for violations of her right to privacy and bodily integrity as set forth in ¶ 47, above, plaintiff Jeanette Perez seeks compensatory and punitive damages against defendant Officer Pete Zawislak in amounts to be determined.

73. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 48, above, plaintiff Laura Pullen seeks compensatory and punitive damages against defendant Officer Larue, in amounts to be determined.

74. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, confinement in administrative segregation and for violations of her right to privacy and bodily integrity as set forth in ¶ 49, above, plaintiff Corilynn Beth Rock seeks compensatory and punitive damages against defendants Officer John Gilbert III and Deputy Superintendent Wolfe in amounts to be determined.

75. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity as set forth in ¶ 51, above, plaintiff Shenyell Smith seeks compensatory and punitive damages against defendant Officer Delroy Thorpe in amounts to be determined.

76. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, threats, and for violations of her right to privacy and bodily integrity, plaintiff Hope Susoh seeks compensatory and punitive damages against defendants Officer Jeffrey Shawver and Deputy Superintendent Wolfe as set forth in ¶ 52, above, in amounts to be determined.

77. For violation of her right to be free from cruel and unusual punishment, sexual abuse, unwanted touching, verbal abuse, and for violations of her right to privacy and bodily integrity as set forth in ¶ 53, above, plaintiff Nakia Thompson seeks compensatory and punitive damages against defendant Officer Rico Meyers in amounts to be determined.

## **PRAYER FOR RELIEF**

As a result of defendants' policies, practices and acts, plaintiffs have suffered and will continue to suffer irreparable injury, including sexual assault, abuse and harassment, pain, shame, humiliation, degradation, emotional distress, embarrassment and psychological distress.

WHEREFORE, plaintiffs respectfully request this court as follows:

1. Declare that the continuing policies, practices, actions and omissions of the supervisory defendants as described above, violate the rights of the plaintiff class under the First, Fourth, Eighth and Fourteenth Amendments to the United States Constitution.

2. Enjoin supervisory defendants and their successors, agents, servants, employees, and those in active concert or participation with them from subjecting women prisoners in the custody of DOCS to verbal and physical sexual abuse and the threat of sexual abuse, and require these defendants to formulate a remedy to end the pattern of sexual misconduct in all women's prisons operated by DOCS. Such a remedy should include measures which would address continuing deficiencies in the assignment, selection, training and supervision of uniformed staff; in the Department's complaint and investigatory practices; and in the provision of mental health treatment to women who have suffered sexual trauma as described earlier in this complaint.

3. Award plaintiffs Lucy Amador, Stacie Calloway, Tonie Coggins, Latasha Dockery, Tanya Jones, Bette Jean McDonald, Kristina Muehleisen, Jeanette Perez, Laura Pullen, Corilynn Beth Rock, Shenyell Smith, Hope Susoh and Nakia Thompson compensatory and punitive damages in an amount to be determined against defendants Deputy Superintendent Donald Wolfe, Sergeant Michael Galbreath and Officers Clarence Davis, M. Evans, John Gilbert III, Larue, Rico Meyers, Michael Pinque, Jeffrey Shawver, Robert Smith, Delroy Thorpe, and Pete Zawislak in their individual capacities on their federal causes of action

as set forth in ¶¶ 62-77, above.

4. Retain jurisdiction in this case until the unlawful conditions, practices, policies, acts and omissions complained of herein no longer exist and this court is satisfied that they will not recur;
5. Award plaintiffs the costs of this action, including reasonable attorneys' fees; and
6. Grant such other and further relief as this court deems just and proper.

Dated: January 28, 2003  
New York, N.Y.

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