

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

EMILY DOCHERTY, individually
and on behalf of all
similarly situated persons,

Plaintiffs,

Vs.

CAPE MAY COUNTY, a municipal
corporation; GARY SCHAFFER,
in his official capacity as
Cape May County Sheriff;
LOWER TOWNSHIP, a municipal
corporation, LOWER TOWNSHIP
POLICE DEPARTMENT, JOSEPH
BOYLE, in his official
capacity as Lower Township
Detective, and UNKNOWN
CORRECTIONAL OFFICERS, in
their individual capacities

Defendants.

Case No.:

CIVIL ACTION

CLASS ACTION

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COMPLAINT

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INTRODUCTION

1. This is a Class Action lawsuit challenging the constitutional and inhumane conditions of confinement at the Cape May County Correctional Center or Cape May County Jail (CMCJ).
2. The named plaintiff is a woman who is currently and formal inmate of Cape May County Jail (CMCJ). In this complaint plaintiff challenges the severe overcrowding and other abysmal conditions that affect all Cape May County Correctional Center inmates, as well as policies, practices and conditions at both the Cape May County Correction Center that uniquely harm women.
3. Cape May (this is going to be referred to as both defendants) is severely overcrowded. Plaintiff was held for days with other women in tiny holding cell without a shower or bed, and without even sufficient space for them to lie down.
4. In some cases, plaintiff was confined in this tiny space with other women who were experiencing the symptoms of drug or alcohol withdrawal including vomiting.

5. Other appalling conditions at Cape May include vermin, insects, mold, overflowing and constantly running toilets, broken sinks, lice, scalding water, unchecked contagious diseases, and falling ceiling tiles.
6. In order to shower plaintiff must stand in a pool of water that fails to drain after other inmates, who have contagious infections and who are menstruating, have taken their shower.
7. Male Cape May guards routinely and regularly view women inmates while they are naked or partially naked, including while they are showering, changing clothes, or using the toilet.
8. Upon information and belief plaintiff and other inmates are clothed with a one piece jumpsuit which requires complete nudity for the simplest task as using a toilet to urinate among other things.
9. Defendants fail to provide adequate feminine hygiene products to women contained at the Cape May Correctional Jail, causing them to bleed through their clothes.

10. Defendant also confiscated some women's brassieres and failed to provide replacements.
11. With some limited exceptions, plaintiff's, like other men and women detained at Cape May are essentially on lock down 24 hours a day, seven days a week.
12. Female Cape May inmates are rarely or never permitted out of the cell exercise.
13. Women detained at Cape May suffer from severe verbal abuse by guards and are routinely called "bitches" and "whores" by defendant correctional officers.
14. Defendants fail to respond to inmates grievances about the severe conditions.
15. On one occasion inmate Tina Reynolds had a miscarriage, it was denied follow-up after she had collapsed. This is by way of example and not limitation.
16. Women inmates are routinely told that grievances are ripped up and sometimes see guards throw them away.

17. Women inmates have been routinely told that if they do not go along or if they request legal representation they will be retaliated against to the extent of doing harsher prison time and being stripped of privileges such as proper blanketing, hygiene products etc. to an extent greater than what is already abysmal.
18. Plaintiff and other similarly situated individuals now bring this action to vindicate their rights, and the rights of those similarly situated, under the fourth, eighth and fourteenth amendments to the United States Constitution.

SUMMARY OF CLASS ACTION STRUCTURE AND INDIVIDUAL CLAIMS

19. Plaintiffs seek to represent four overlapping classes as follows:
 - a. The first class (the "Female Damages Class") consists of former female inmates at Cape May seeking damages for harms specific to female inmates. The class seeks damages against the municipal defendants under count one of this complaint (violation of privacy and bodily integrity); count two (denial of exercise) and count three (denial of access to feminine hygiene products and adequate clothing).
 - b. The second Class (the over-crowding damage class) consists of former male and female inmates at Cape May seeking

damages for over-crowding and the other abysmal conditions of confinement that affect inmates of both genders at Cape May. The class seeks damages against the municipal defendants under counts IV this complaint (over-crowding and other abysmal conditions).

- c. The third class (the "Female Injunctive Class") consists of current and future female inmates Cape May seeking declaratory and injunctive relief from the ongoing harms specific to female inmates. This class seeks declaratory and injunctive relief against the municipal defendants under count one of this complaint (violation of privacy and impertinent bodily integrity); count two (denial of exercise); and count three denial of access to feminine hygiene products and adequate clothing)
- d. The Fourth Class (the "overcrowding injunctive class") consists of current and future male and female inmates of CMC seeking declaratory and injunctive relief from ongoing overcrowding and other abysmal conditions that affect inmates of both genders at CMC. This class seeks declaratory and injunctive relief against the municipal defendants under Count 4 of the complaint (overcrowding and other abysmal conditions).

20. The following plaintiffs seek to serve as class representatives.
- a. The female damages class and overcrowding damages class (together, the "damages classes") will be represented by plaintiff Emily Docherty.
 - b. The female injunctive class and overcrowding injunctive class (together, the "injunctive class") will be represented by Emily Docherty.
21. In addition to serving as class representative plaintiff will seek damages individually (i.e., on her own behalf) as follows.
- a. All plaintiffs seek damages against the municipal defendants and unknown correctional officers under Counts I through IV.
 - b. Plaintiff Emily Docherty seeks damages against the municipal defendants and unknown correctional officers under County IV.

JURISDICTION AND VENUE

22. This Court has jurisdiction over this matter under 28 U.S.C. 1331 and 1343 because federal questions are presented to this action under the 4th, 8th and 14th Amendments to the United States Constitution and 42 U.S.C. 1983.
23. Venue is proper under 28 U.S.C. 1391(b) (1) and (2) because defendants reside in the district and the events and omissions giving rise to the claims occurred and/or will occur in this district.

PARTIES

24. Plaintiff Emily Docherty is a former CMC inmate. She was incarcerated in CMC on and off from December 21, 2013 to present.
25. Defendant Cape May County is a municipal corporation organized under the laws of the State of New Jersey. Cape May County runs Cape May County Jail (CMCJ), which is located at 125 Crest Haven Road, Cape May, New Jersey 08210.
26. Defendant Gary Schaffer is sued in his official capacity as Cape May County Sheriff. He is the chief law enforcement officer for Cape May County and is located 4 Moore Road, Cape May Court House, New Jersey 08210.

27. Defendant Township of Lower is a municipal corporation organized under the laws of the State of New Jersey. Township of Lower runs Lower Township Police Department.

28. Defendant Joseph Boyle is sued in his official capacity as Lower Township Detective. He is the chief law enforcement officer for Cape May County.

29. Defendants unknown Lower Township police officers who currently work for Lower Township police department or, at any time relevant to this Complaint, previously worked at Lower Township police department, and whose identities are not known. They are sued in their individual capacities.

30. Defendants unknown CMCJ Administrators who currently work at CMCJ or, at any time relevant to this Complaint, previously worked at CMCJ, and whose identities are not known. They are sued in their individual capacities.

31. Defendants unknown correctional officers are correctional officers who currently work at CMCJ or, at any time relevant to this Complaint, previously worked at CMCJ, and whose identities are not known. They are sued in their individual capacities.

32. Cape May County, CMCJ, Township of Lower, and the Lower Township Police Department are located in the District of New Jersey, Camden Vicinage.

FACTUAL ALLEGATIONS

33. CMCJ holds male and female inmates, including both pretrial detainees and sentenced individuals.
34. CMCJ was built in 1976, with some additions since that time.
35. CMCJ is designed to house 114 inmates and with the later upgrades up to 188.
36. CMCJ routinely houses well over 300 inmates.
37. In 2014 according to Cape May County Sheriff Gary Schaffer there were currently 235 inmates but that number would often be above 300.
38. As of December 15, 2015 there were 289 inmates with approximately 45 women.
39. Women inmates are generally held in other multi-person cells.

40. When inmates first arrive at CMCJ they are processed through the booking area and holding tanks, which are designed to hold inmates for brief periods until they are transferred to their cells, or while they are being transferred to court or to other outside locations.

Cross-Gender Viewing

41. Genitals, buttocks, and for women, breasts are especially private parts of the human body.
42. Involuntary exposure of these private parts to members of the opposite sex is uniquely demeaning and humiliating.
43. The act of using the toilet and, for women, of attending to the sanitary needs relates to menstrual periods, are especially private acts.
44. The toilets and showers used by plaintiffs and other female inmates are not shielded by privacy walls.
45. As a result, male guards and male inmate trustees repeatedly and routinely observe plaintiffs, and other

female inmates, while they are using the toilet, including times when plaintiffs had had their menstrual period.

46. Furthermore, male guards repeatedly and routinely observe plaintiffs, and other female inmates while they are showering or changing clothes, and are naked or partially naked.
47. Plaintiffs and other women inmates are subject to cross-gender viewing beginning when they first enter the jail and are held in the holding tank.
48. All plaintiffs and other women inmates have been held in the holding tank upon arrival in the jail. Male guards, as well as all inmates walking past the holding tank, can see the holding tank's toilet and observe inmates while they use the toilet.
49. After leaving the holding tank, plaintiffs and other women inmates remain subject to cross-gender viewing, regardless of whether they are held in a multi-person cell near the other multi-person cells as all cells are constructed so that women inmates using the

toilet, showering, or changing clothes can be viewed by male guards.

50. For the multi-person cells, male guards and male inmate trustees have a clear and unobstructed view of the toilets and showers. There is also no location in these cells where plaintiffs and other women inmates can change clothes without being seen by male guards and male inmate trustees.
51. For women held in multi-person cells, male guards and male inmates can see women toileting, showering and changing clothes. Male guards have a clear and unobstructed view of the showers and an unobstructed view of the toilets in the multi-person cells.
52. During her incarceration Emily Dochery had to wear one-piece jumpsuit.
53. Because she was required to wear a one-piece jumpsuit, in order to use the toilet, plaintiff had to disrobe and expose her body.

54. CMCJ confiscates and does not replace the bras of some women inmates. Ms. Dochery and other female inmates whose bras were confiscated by CMCJ officers were forced to expose their naked breasts when lowering their jumpsuits to use the toilet.
55. Male guards repeatedly and routinely enter cells and day room facilities without knocking or announcing themselves while female inmates are using the toilet, disrobing, or using the shower.
56. Plaintiff and other women inmates have attempted to protect their bodily privacy by using their bodies, trash bags, towels or bed linens to prevent male guards and inmates from seeing women who are changing clothes, using the toilet or using the shower.
57. Plaintiff and other women have attempted to protect their privacy by temporarily covering the windows on cell doors, plastic bags or other items while using the toilet.
58. Women inmates are either disciplined or threatened with discipline when they attempt to protect their own

privacy and bodily integrity in this manner. Unknown corrections officers confiscated all beddings when attempts to protect the woman's bodily privacy.

59. CMCJ staff repeatedly tell women inmates that they have no privacy rights once they enter jail and then that if they wanted privacy rights, they should not have gotten arrested.

60. CMCJ does not have any penological justification for allowing male guards and male inmate trustees to routinely observe plaintiff and other female inmates while they use the toilet, shower, or change clothes.

Denial of Exercise Opportunities

61. The plaintiff and other women inmates at CMCJ rarely if ever receive out-of-cell exercise opportunities. They are essentially locked in their cells 24 hours per day 7 days per week upon information and belief.

62. Upon information and belief, male inmates in CMCJ receive out-of-cell exercise opportunities more regularly.

63. Plaintiff and other female inmates could be or could have been, but are not and were not brought to exercise either indoor or outside. When they are brought to areas that could allow for exercise they are not permitted. During the period of Ms. Dochery's incarceration at CMCJ she was either not allowed to exercise or have exercise an amount less than the average male exercises permitted.

Denial of Feminine Hygiene Products, Toilet Paper, and Adequate Clothing

64. Plaintiff and other women inmates at CMCJ are not provided with adequate feminine hygiene products or toilet paper.
65. Female inmates who menstruate do not receive sanitary napkins in a timely fashion and in some instances are not provided with sanitary napkins at all.
66. Plaintiff and other female inmates who menstruate and are denied pads bleed into their clothing and are often not provided with clean clothing until laundry day, which does not occur every day.

67. Consequently, women may have to wear bloody clothing for as long as the laundry cycle takes which can be up to a week in some instances.
68. When officers finally provided feminine products to Ms. Dochery, they do not provide enough.
69. When Ms. Dochery was held, unknown correctional officers provided only one pack of pads for as many as 30 women, and told them to share knowing that the amount of pads would not sufficiently handle the number of menstrual cycle women for their hygiene needs.
70. Although the plaintiff and others begged for sanitation products, they were not given pads for sometimes days and forced to bleed through their clothes.

Extended Stays in the Overcrowded Holding Tank

71. Upon information and belief, the holding tanks at the CMCJ are the size of a large closet, however, plaintiff and other women have been held in these

small cells with as many as 18 other women at one time.

72. At the CMCJ, women inmates are often held in a holding tank for days at a time.
73. There are no beds in the holding tank. Women sleep on concrete benches or on concrete floor without mats. When the holding tanks are overcrowded, there is not sufficient space for inmates to lay down.
74. The holding tanks in CMCJ do not have showers. Women held in the holding tank do not have a way to clean themselves, even when they are there for several days and are ill or menstruating.
75. The holding tanks in CMCJ have toilets that can be viewed by male guards.

Other Abysmal Conditions of Confinement

76. The walls, floors, windows, showers, and shower curtains inside the CMCJ are covered in mold.

77. Due to unsanitary conditions, the CMCJ is infested with sewer bugs, water bugs, silver fish, spiders, ants and other insects as well as mice.
78. Ceiling tiles inside the CMCJ are falling down.
79. Toilets routinely overflow or back up, spilling human waste into the cells. Inmates are regularly exposed to human feces, urine, blood and vomit. In some cells there is standing liquid on the floor that contains human waste.
80. In some cells when an inmate flushes the toilet, waste or menstrual blood comes back up into the toilet of the adjoining cell.
81. In order to shower, some inmates, including plaintiff, must stand in pools of water that fail to drain after other inmates who have infections or who are menstruating take their showers.
82. Some showers have inadequate temperature controls.

Severe Overcrowding

83. The CMC is routinely severely overcrowded and constantly exceeds its rated design capacity to house 118 inmates.

CLASS ACTION ALLEGATIONS

84. Plaintiffs seek to represent four overlapping classes as follows;

- A. Class 1, or the "female damages class," as a class of former female inmates seeking damages for harms specific to female inmates under Counts I through III of this complaint.
- B. Class 2, or the "overcrowding damages class," is a class of former male and female inmates seeking damages for overcrowding and other abysmal conditions of confinement under Count IV of this complaint.
- C. Class 3, or the "female injunctive class," is a class of current and future female inmates seeking declaratory and injunctive relief from ongoing harms specific to female inmates under Counts I through III of this complaint.

D. Class 4, or the "overcrowding injunctive class," is a class of current and future male and female inmates seeking declaration and injunctive relief from overcrowding and other abysmal conditions under Count IV of this complaint.

85. For each of the four classes identified above;

A. The class is so numerous that joinder of all member is impracticable;

B. There are questions of law or fact common to the class;

C. The claims of the plaintiff seeking to represent the class are typical of the claims of the class; and

D. The plaintiff seeking to represent the class will fairly and adequately protect the interests of the class.

86. For Classes 1 and 2 (together, the "damages classes"), the common questions predominant over questions affecting only

individual class members, and a class action is superior to other methods for adjudicating the class members' claims.

87. For Class 3 and 4 (together, the "injunctive classes"), the municipal defendants have acted or refused to act on grounds that apply generally to the class, so that declaratory and injunctive relief is appropriate respecting the class as a whole.

CLASS 1: FORMER FEMALE INMATES ("FEMALE DAMAGES CLASS")

88. Plaintiff Emily Docherty brings this action for damages on her own behalf and pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3), on behalf of other similarly situated.
89. These plaintiffs seek to represent a class ("Class 1) or the female damages class") consisting of all former female inmates who were incarcerated at the CMCJ at any time within 3 years prior to the filing of this litigation.
90. All members of Class 1 were harmed by the municipal defendants' policy, custom or practice of (A) regularly and routinely subjecting female inmates to viewing by male guards while the inmates are toileting, showering, or

changing clothes; (B) denying female inmates exercise time outside of their cells; and (C) denying female members adequate access to feminine hygiene products, toilet paper, and undergarments and other clothing. These allegations encompass Counts I through III of this complaint.

91. There are questions of law in fact common to the class, namely whether defendants engaged in the challenged policies/customs/practices, and whether those policies/customs/practices violated class members' rights under the Fourth Amendment, Eighth Amendment, and due process clause of the 14th Amendment to the United States Constitution.

92. The proposed class representatives' claims are typical of the claims of Class 1 because all women inmates were subjected to the same unconstitutional conditions at the CMCJ as challenged in Counts I through III of this complaint.

CLASS 2: FORMER INMATES ("OVERCROWDING DAMAGES CLASS")

93. Plaintiff Emily Docherty brings this action for damages on her own behalf and pursuant to Fed. R. Civ. P. 23(a) and

Fed. R. Civ. P. 23(b)(3) and on behalf of all others similarly situated.

94. These plaintiffs seek to represent a class ("Class 2" where the "overcrowding damages class") consisting of all former inmates who were incarcerated at CMCJ at any time within 3 years prior to the filing of this litigation.
95. All members of Class 2 were harmed by the municipal defendants' policy, custom or practice of failing to remedy the severe overcrowding and other abysmal conditions at the CMCJ. These allegations encompass Count IV of this complaint.
96. There are questions of law in fact common to the class, namely whether defendants engage in the challenge policies/customs/practices, and whether those policies/customs/practices violated class members' rights under the Eight Amendment and the due process clause of the 14th Amendment of the United States Constitution.
97. The proposed class representatives' claims are typical of claims of Class 2 because all inmates were subjected to the

same unconstitutional conditions at the CMCJ as challenged in Count IV of this complaint.

**CLASS 3: CURRENT AND FUTURE FEMALE INMATES
("FEMALE INJUNCTIVE CLASS")**

98. Plaintiff Docherty brings this action for declaratory and injunctive relief on her own behalf, and pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(2), on behalf of all others similarly situated.
99. Plaintiff Docherty seeks to represent a class ("Class 3" or the "female injunctive class") consisting of all current and future female inmates at the CMCJ.
100. All members of Class 3 are being harmed, or absent injunctive relief will be harmed, by the municipal defendants' policy, custom or practice of (A) regularly and routinely subjecting class members to viewing by male guards while the inmates are toileting, showering, or changing clothes; (B) denying class members exercise time outside of their cells; and (C) denying class members adequate access to feminine hygiene products, toilet paper, and undergarments and other clothing. These allegations encompass Counts 1 through 3 of this complaint.

101. There are questions of law in fact common to the class, namely whether defendants engaged in the challenged policies/customs/practices, and whether those policies/customs/practices violated class members' rights under the Fourth Amendment, Eighth Amendment, and due process clause of the 14th Amendment to the United States Constitution.
102. The proposed class representatives' claims are typical of the claims of Class 3 because all women inmates were subjected to the same unconstitutional conditions at the CMCJ as challenged in Counts I through III of this complaint.

**CLASS IV: CURRENT AND FUTURE INMATES
("OVERCROWDING INJUNCTIVE CLASS")**

103. Plaintiff Docherty brings this action for declaratory and injunctive relief on her own behalf, and pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(2), on behalf of all others similarly situated.
104. Plaintiff Docherty seeks to represent a class ("Class IV" or the "overcrowding injunctive class") consisting of all current and future inmates at the CMCJ.

105. All members of Class IV are being harmed, or absent injunctive relief will be harmed, by the municipal defendants' policy, custom or practice of failing to remedy the severe overcrowding and other abysmal conditions at the CMCJ. These allegations encompass Count IV of this complaint.
106. There are questions of law in fact common to the class, namely whether defendants engaged in the challenged policies/customs/practices, and whether those policies/customs/practices violated class members' rights under the Eighth Amendment, and due process clause of the 14th Amendment to the United States Constitution.
107. The proposed class representatives' claims are typical of the claims of Class 4 because all inmates are subjected to the same unconstitutional conditions at CMCJ as challenged in Counts IV of this complaint.

MUNICIPAL LIABILITY

108. The municipal defendants maintain and continue to maintain the custom/policy or practices of regularly and routinely subjecting female inmates to viewing by male guards while showering, changing clothes or using

the toilet; (B) denying female inmates access to out-of-cell exercise opportunities (C) failing to provide adequate feminine hygiene products, toilet paper, and undergarments and other clothing to female inmates; and (D) subjecting all inmates to severe overcrowding and other abysmal conditions of confinement.

109. This custom/policy or practice is evidenced by (1) defendants' official policies and practices; (2) the actions and decisions of officials and final decision-making authority; (3) defendants' failure to adequately train and supervise CMCJ staff; and (4) a custom of tolerating or acquiescing to repeated violations of the constitutional rights of CMCJ inmates.
110. Defendants have long had actual or constructed notice of the unconstitutional conditions at CMCJ.
111. Nonetheless defendants have failed to take action to remedy the unconstitutional conditions.
112. Plaintiffs and other inmates have repeatedly submitted written grievances or have repeatedly made verbal complaints regarding the challenge conditions.

113. Defendants have failed to meet their duty to adequately train and supervise CMCJ staff in order to ensure that those staff act in accordance well-established constitutional principles. Defendants have also failed to meet their duty to appropriately discipline their staff for legitimate grievances filed by inmates.
114. This failure to train, supervise and discipline has had, and continues to have, the highly predictable consequence of allowing staff to overpopulate the holding tanks, ignore requisites to fix basic plumbing and maintenance, ignore requests to provide sanitary items, and verbally degrade female inmates and engage in other unconstitutional action or inaction outlined above.
115. Defendants have failed to adequately train, supervise and discipline CMCJ staff despite the fact that the defendants have actual or constructive notice of the challenged conditions. The failure to train, supervise and discipline under these circumstances constitutes deliberate indifference to the rights of plaintiffs.
116. Despite a clear and persistent pattern of constitutional rights violations, and despite the fact

that defendants had actual or constructive notice of this clear and persistent pattern, defendants either explicitly or tacitly approved of this unconstitutional conduct, such that their failure to act constitutes deliberate indifference to the rights of the plaintiffs.

117. The custom, policy and practice of defendants - including official policies, the actions of the officials with decision-making authority, failure to adequately train, supervise, and discipline CMCJ staff for the challenged conduct, and the tolerance of repeated violations of individuals' constitutional rights - are the moving force behind and the proximate cause of the challenged conduct.

CAUSES OF ACTION

COUNT I

Violation OF PRIVACY AND BODILY INTEGRITY

118. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

119. Jail inmates retain a constitutional right to bodily privacy during their incarceration.

120. Due to defendants' policy, practice or custom, plaintiffs and class members have been, are being, and will be subjected, without any penological justification or other legitimate purpose, to routine and systematic viewing by members of the opposite sex while naked and partially naked, while showering, while toileting, and while attending to their menstrual periods.
121. Due to defendants' policy, practice or custom, plaintiffs and class members have been, and are being, and will be subjected to discipline, punishment and threats of discipline and punishment for trying to use reasonable means to protect their privacy and bodily integrity while they shower, dress and use toilets at the CMCJ.
122. With respect to convicted inmates incarcerated at CMCJ, the routine viewing by male guards and male trustees constitutes unnecessary and wanton infliction of pain and are maintained with deliberate indifference to plaintiff's Eighth Amendment rights.
123. With respect to pretrial detainees incarcerated at the CMCJ, the routine viewing by male guards and male trustees has caused such detainees who have not yet been convicted of any crime to suffer punishment without due process of law.

124. Routine viewing by male guards and trustees also constitutes an unjustified invasion of privacy and bodily integrity in violation of the Fourth Amendment to the United States Constitution.
125. Defendants acting under the color of state law, violated and are violating the prohibition against unreasonable searches and seizures under the Fourth Amendment to the United States Constitution; the prohibition against cruel and unusual punishment under the Eighth Amendment of the United States Constitution; and the prohibition against punishment of pretrial detainees under the due process clause of the 14th Amendment by permitting male guards and male trustees to regularly, routinely and without penological justification view plaintiffs and class members while they shower, dress and use toilets at the CMCJ, and by punishing or by threatening to punish plaintiffs and class members when they try to protect their privacy.
126. Persons violating the Fourth, Eighth or 14th Amendments to the United States Constitution under the collar of state law are liable at law and in equity under 42 U.S.C. 1983.
127. Under Count 1, the female damages class seeks damages against the municipal defendants; for the female injunctive class seeks declaratory and injunctive relief against the municipal defendants; all plaintiffs individually seek

damages against municipal defendants and unknown correctional officers; plaintiff Docherty seeks declaratory and injunctive relief against municipal defendants.

COUNT II
DENIAL OF EXERCISE

128. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

129. Due to defendants' policy, practice or custom, plaintiffs and class members have been, are being, and will be denied out-of-cell exercise.

130. With respect to convicted inmates incarcerated at the CMCJ, the denial of exercise constitutes unnecessary and wanton infliction of pain evidencing deliberate indifference to plaintiff's 8th Amendment rights. The denial of exercise is not justified by any legitimate penological interest.

131. With respect to pretrial detainees incarcerated at the CMCJ, the denial of exercise constitutes punishment without due process of law.

132. By denying, as a rule, out-of-cell exercise to female inmates at the CMCJ, defendants have violated and are violating the prohibition against cruel and unusual

punishment under the 8th Amendment and the prohibition against punishment of pre-trial detainees under the due process clause of the 14th Amendment of the United States Constitution.

133. Persons violating the 8th or 14th Amendment to the United States Constitution under collar of state law are liable at law in an equity under 42 U.S.C. 1983.

134. Under Count 2, the female damages class seeks damages against the municipal defendants; the female injunctive class seeks declaratory and injunctive relief against the municipal defendants; all plaintiffs individually seek damages against the municipal defendants and unknown correctional officers; and plaintiff Docherty seeks declaratory and injunctive relief against the municipal defendants.

COUNT III

DENIAL OF ACCESS TO FEMININE HYGIENE PRODUCTS, TOILET PAPER, AND ADEQUATE UNDERWEAR AND OTHER CLOTHING

135. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

136. Due to defendants' policy, practice or custom, plaintiffs and class members have been, are being, and will be denied feminine hygiene products, toilet paper, and adequate underwear and other clothing.
137. Denying these items to female inmates at the CMCJ, defendants have violated and are violating the prohibition against cruel and unusual punishment under the 8th Amendment and the prohibition against punishment of pre-trial detainees under the due process clause of the 14th Amendment to the United States Constitution.
138. Persons violating the 8th or 14th Amendment to the United States Constitution under collar of state law are liable at law and in equity under 42 U.S.C. 1983.
139. Under Count 3, the female damages class seeks damages against the municipal defendants; the female injunctive class seeks declaratory and injunctive relief against the municipal defendants; all plaintiffs individually seek damages against the municipal defendants and unknown correctional officers; plaintiff Docherty seeks declaratory and injunctive relief against the municipal defendants.

COUNT IV
SEVERE OVERCROWDING AND OTHER ABYSMAL CONDITIONS

140. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

141. Due to the defendants' policy, practice or custom, plaintiffs and class members have been, are being, and will be subjected, without any penological justification or other legitimate purpose, to severe overcrowding and other adequate, unsanitary and dangerous conditions, and prolonged stays in the holding tank, as alleged above.

142. With respect to convicted inmates incarcerated at CMCJ, the conditions maintained by defendants constitute unnecessary and wanton infliction of pain and are maintained with deliberate indifference of plaintiff's 8th Amendment rights. The conditions are not justified by any legitimate penological interest.

143. With respect to pretrial detainees incarcerated at the CMCJ, the conditions maintained by the defendants have caused such detainees to suffer punishment without due process of law.

144. Defendants, through their policy, practice and custom of permitting such overcrowding and such abysmal conditions, have violated and are violating the prohibition against cruel and unusual punishment under the 8th Amendment and the prohibition against punishment of pretrial detainees under the due process clause of the 14th Amendment to the United States Constitution.
145. Persons violating the 8th or 14th Amendment to the United States Constitution under collar of state law are liable at law and in equity under 42 U.S.C. 1983.
146. Under Count 4, the overcrowding damages class seeks damages against the municipal defendants; the overcrowding injunctive class seeks declaratory and injunctive relief against municipal defendants; all plaintiffs individually seek damages against the municipal defendants and unknown correctional officers; and plaintiff Docherty seeks declaratory and injunctive relief against the municipal defendants.

COUNT V

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

147. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

148. Defendant Lower Township Lower Police Department and Defendant Detective Joseph Boyle and each of them, engaged in outrageous conduct towards Plaintiff, with the intention to cause or with reckless disregard for the probability of causing Plaintiff to suffer severe emotional distress. To the extent that said outrageous conduct was perpetrated by certain Defendants, the remaining Defendants adopted and ratified said conduct with a wanton and reckless disregard of the deleterious consequences to Plaintiff.

149. Furthermore, on December 21, 2013, Defendant Boyle and other Defendants mocked and ridiculed plaintiff including but not limited to calling plaintiff's father the "town drunk."

150. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, all to her damages in amounts to be proven at trial.

151. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively with wrongful intention of injuring Plaintiff, from an improper and evil

motive amounting to malice and in conscious disregard of Plaintiff's rights, entitling Plaintiff to recover punitive damages in amounts to be proven at trial.

COUNT VI
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

152. Plaintiff repeats here the allegations of the previous paragraphs as if set forth at length herein.

153. Defendant Lower Township Lower Police Department and Detective Joseph Boyle, and each of them, knew or reasonably should have known that the conduct described herein would and did proximally result in the physical and emotional distress to plaintiff.

154. At all times relevant all Lower Township defendants, and each of them, had the power, ability, authority, and duty to stop engaging in the conduct described herein and/or to intervene to prevent or prohibit such conduct.

155. Despite said knowledge, power, and duty, defendants Lower Township Lower Police Department Detective Boyle negligently failed to act so as to stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise protect plaintiff. To the extent that

the negligent conduct was perpetrated by certain defendants, the remaining defendants confirmed and ratified said conduct with the knowledge that plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless disregard for the deleterious consequences to plaintiff.

REQUEST FOR RELIEF

Based on the foregoing, Plaintiffs request that the Court provide relief as follows:

1. Certify a Female Damages Class, an Overcrowding Damages Class, a Female Injunctive Class, and an Overcrowding Injunctive Class as those classes have been defined above;
2. Declare that defendants are violating or have violated the constitutional rights of plaintiffs and the classes they represent by:
 - a. Permitting male guards to regularly, routinely and without penological justification view plaintiffs and class members while they shower, dress, and use the toilets at the CMC, and punishing or threatening to punish plaintiffs and class members when they try to protect their privacy;
 - b. Denying plaintiffs and class members adequate out-of-cell exercise;
 - c. Denying plaintiffs and class members adequate feminine hygiene products, toilet paper, and underwear and other clothing;
 - d. Permitting severe overcrowding; and

e. Maintain otherwise abysmal conditions as outlined above;

3. Enjoin defendants from:

a. Permitting male guards to regularly, routinely and without penological justification view plaintiff Docherty and the class members she represents while they shower, dress, and use the toilets at the CMC, and punishing or threatening to punish Docherty and other members when they try to protect their privacy;

b. Denying Docherty and the class members she represents adequate out-of-cell exercise;

c. Denying Docherty and the class members she represents adequate feminine hygiene products, toilet paper, and underwear and other clothing;

d. Continuing to maintain otherwise abysmal conditions as outlined above;

4. Award damages to all plaintiffs and members of the Damages Classes for the constitutional violations set forth in Counts I through V of this Complaint;

5. Award plaintiffs reasonable attorneys' fees pursuant to 42 U.S.C. 1988; and

6. Grant any other relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all those issues triable as of right pursuant to Fed. R. Civ. P. 38(b).

RESPECTFULLY SUBMITTED,

BY: /s/ Timothy J. McIlwain
TIMOTHY J. MCILWAIN

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Dated: December 20, 2015

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned, Timothy J. McIlwain, Esquire certifies on behalf of the above named plaintiff as follows:

1. I am an attorney admitted to practice law in the State of New Jersey, and have been entrusted with the handling of this matter for the above named plaintiff;
2. The matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.
3. At this time, there are no other parties who should be joined in this action;
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12/20/15

By: /s/ Timothy J. McIlwain
Timothy J. McIlwain, Esquire