

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

<b>DWIGHT WILLIAMS; ANTHONY</b>	:	
<b>OUELLETTE; KOLEYON PHILLIPS;</b>	:	<b>CIVIL ACTION</b>
<b>ANTHONY DIGGS; KENNETH SMITH;</b>	:	
<b>EDWARD ZAMICHIELI; LOUIS</b>	:	<b>No. 08-_____</b>
<b>EUBANKS; JAMES SAUNDERS;</b>	:	
<b>THOMAS SCOTT; SHANNON BOLLI;</b>	:	<b>CLASS ACTION</b>
<b>and MARISOL LOPEZ, on behalf of</b>	:	
<b>themselves, and all others similarly</b>	:	
<b>situated,</b>	:	
	:	
<b>Plaintiffs,</b>	:	
	:	
v.	:	
	:	
<b>CITY OF PHILADELPHIA; LOUIS</b>	:	
<b>GIORLA, in his official capacity as</b>	:	
<b>Commissioner, Philadelphia Prisons,</b>	:	
	:	
<b>Defendants.</b>	:	

**COMPLAINT**

**Introduction**

1. This is a class action for injunctive and declaratory relief for the named individual plaintiffs and the class they represent to secure relief from the pervasive and chronic unconstitutional conditions of confinement that exist and which, absent judicial intervention, will continue to persist in the Philadelphia Prison System (“PPS”). Due to severe overcrowding and the lack of adequate facilities in which to house inmates in the PPS, persons who are committed to the PPS, many of whom have only been charged with crimes and are presumed innocent, are held in dangerous, unsanitary, severely overcrowded, degrading, and cruel conditions of confinement. As of April 21, 2008, the prison population in the PPS is at an historic high of more than 9,300 inmates.

2. In *Bowers v. City of Philadelphia*, C.A. No. 06-3229, this Court found unconstitutional conditions of confinement in the intake areas of the PPS and in police districts. To comply with an injunction issued by the Court, the City of Philadelphia shifted the overcrowding by greatly expanding its practice of housing three inmates in cells meant to accommodate no more than two inmates and housing four inmates in “multi-purpose” rooms (collectively, “triple celling” or “triple cells”), and by increasing the population of overcrowded dormitory areas.

3. The widespread practice of triple celling and placement of inmates in overcrowded dormitories has resulted in system-wide unconstitutional conditions of confinement. And, as the prison population continues to increase, these conditions continue to deteriorate. The conditions are so harsh and degrading, and so dangerous to the health and safety of the inmates, as to constitute cruel and unusual punishment under the Eighth Amendment and a denial of liberty without due process of law under the Fourteenth Amendment.

### **Jurisdiction**

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. §§ 1983 and 1988 and the Eighth and Fourteenth Amendments to the United States Constitution. The Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a).

### **Parties**

5. Plaintiffs Dwight Williams, Anthony Ouellette, Koleyon Phillips, Anthony Diggs, Kenneth Smith, Edward Zamichieli, Louis Eubanks, James Saunders, Thomas Scott, Shannon Bolli, and Marisol Lopez are residents of the Commonwealth of Pennsylvania and are currently confined in the PPS subject to the conditions of confinement that are alleged in this Complaint. The individual plaintiffs sue for injunctive and declaratory relief on behalf of themselves and on

behalf of those who currently are or will in the future be subject to these unconstitutional conditions of confinement. All inmates in the PPS are subject to the conditions of confinement alleged in this Complaint.

6. Defendant City of Philadelphia is a political subdivision of the Commonwealth of Pennsylvania and operates and funds the Philadelphia Prison System. At all relevant times, defendant City of Philadelphia has acted and will continue to act under color of state law.

7. Defendant Louis Giorla is the Commissioner of the Philadelphia Prison System and is sued in his official capacity. At all relevant times, defendant Giorla has acted and will continue to act under color of state law.

### **Factual Allegations**

#### **A. History of Unconstitutional Conditions in the PPS**

8. In two related civil rights actions, *Jackson v. Hendrick*, C.P. Philadelphia, February Term, 1971, No. 2437, and *Harris v. City of Philadelphia*, E.D. Pa., No. 82-1847, begun in 1971 and 1982, respectively, state and federal courts ordered the Philadelphia Prison System to implement a series of measures to remedy conditions of confinement that violated the United States and Pennsylvania Constitutions. According to the findings of the three-judge *Jackson* court, which were sustained on appeal, and the allegations of the *Harris* Complaint, which supported a series of court-approved consent decrees, PPS inmates, the large majority of whom were awaiting trial, were subjected to unhealthy, unsafe, and degrading conditions of confinement due, in significant part, to the fact that the resources of the PPS, including housing, security staff, medical care, food, sanitation, and programming, were insufficient and inadequate to meet the needs of the number of inmates in custody.

9. Between them, the *Jackson* and *Harris* courts mandated physical plant improvements, enhancements in medical care and sanitation, the construction of new jails and a courthouse to increase capacity and expedite dispositions, the adoption and implementation of physical and operational standards and policies and procedures affecting conditions of confinement, and the establishment of alternatives to incarceration, including diversion of inmates into drug treatment programs. The *Harris* Court also ordered a limited, charge-based moratorium on the admission of certain categories of untried persons so long as the PPS population exceeded the inmate capacity, as determined by the PPS.

10. The *Harris* litigation was terminated in 2000 with the entry of a final Settlement Agreement in which the City of Philadelphia agreed to fund for a period of two years the cost of independent consultants to monitor the PPS's compliance with PPS Physical and Operational Standards and PPS Policies and Procedures governing all aspects of conditions of confinement. The City also agreed to implement specified physical improvements to the House of Correction on a prescribed schedule. At the time that the *Harris* litigation was terminated, the population of the PPS was approximately 7,000 inmates, and the Court's approval of the parties' settlement was qualified with the expression of concern that without judicial oversight, the population, which had nearly doubled over the life of the litigation, would continue to increase beyond the physical capacity of the PPS.

11. The *Jackson* litigation was terminated in 2001 following 30 years of court supervision that included repeated and specific findings of unconstitutional conditions, a progression of consent decrees, and the release of inmates.

12. In terminating *Jackson*, the City of Philadelphia agreed that upon the opening of a new Women's Detention Facility and the Cambria Correctional Center, and as long as the

population did not exceed 950 women and 6,850 men (a total of 7,800), the City would hold the population in the dormitories at Detention Center (“DC”) to 192, remove all inmates from the dayrooms and annex areas at DC, eliminate all triple celling, and would house no more than four inmates per multi-occupancy room at the Curran Fromhold Correctional Facility (“CFCF”).

13. In the five years following the termination of *Harris* and *Jackson*, the population of the PPS steadily increased, and the increase in the number of inmates far exceeded the additional housing capacity provided by a new women’s facility, the Riverside Correctional Facility.

**B. The Overcrowding Crisis of 2006**

14 By June, 2006, the population in the PPS had increased to 8,900 inmates, representing an increase of 25% from 2000. There was not a commensurate increase in physical capacity, staffing, or other resources essential to constitutional conditions of confinement.

15. To house the greatly increased population, the prison defendants instituted triple celling at CFCF, Riverside Correctional Facility, and at the House of Correction, placed excessive numbers of inmates in dormitory areas at the Detention Center, and resorted to housing inmates in common spaces and recreation areas in other facilities which were crowded well beyond their capacity.

16. Further, because the defendants did not provide a sufficient number of correctional officers and other staff, they resorted to “lock-downs” and “restricted movements” at each of the facilities on a regular basis. These practices made conditions of confinement even more intolerable, as they deprived inmates of recreation, movement, and services. At the same time, these practices increased dangers to inmates and staff, including correctional officers, due

to the significant increase in tension and disputes that result when inmates are deprived of movement, recreation, and exercise.

17. Even with triple celling, the overuse of dormitory space at the DC, the use of common and recreation areas, and restricted movements and lock-downs of the general population, the City was unable to provide housing for all persons committed to the prisons.

18. In 2006, as the PPS literally ran out of housing space, the PPS instituted a policy and practice (“Operation Strategic Admission” or “OSA”) of holding inmates at the intake/admissions area of the DC, the Philadelphia Industrial Correctional Center (“PICC”), and/or CFCF until a cell was available in medical quarantine or in the general population.

19. Pursuant to this official practice and policy, inmates were first held at police districts and the Police Administration Building for periods ranging up to seven days. Thereafter, they were held in the intake areas of the PPS for well beyond the 24 hours required for admission into the system. The conditions at the police districts and the intake areas were dangerous, degrading and threatening to life, safety and health, all in violation of the Eighth and Fourteenth Amendments.

20. In *Bowers v. City of Philadelphia*, the Court, after certifying the matter as a class action, and after a full hearing on a Motion for Preliminary Injunction, ruled that the totality of circumstances regarding the conditions in the police districts and the intake/admissions areas of the PPS were so dangerous, punitive, and severe, as to violate the Eighth and Fourteenth Amendments.

21. The Court determined that the severe overcrowding, lack of adequate hygiene supplies, and lack of bedding, denial of medical care, and unsanitary conditions of confinement

served no legitimate penal purpose, and ordered specific relief aimed at these constitutional violations. Thereafter, the Court extended the grant of preliminary injunctive relief.

22. The Court determined that the City’s response to the overcrowding crisis was both too little and too late and did not adequately address the constitutional violations. Opinion, 52-53.

23. The Court recognized that the PPS had attempted to solve the “immediate pretrial detainee overcrowding problem with one main solution – triple-celling in the quarantine unit of CFCF intake.” Opinion, 53. The Court warned, however, that “triple-celling . . . is not tenable as a permanent cure,” Opinion, 53, and likened this approach to “a band-aid on a wound that requires surgery.” Opinion, 54. In summary, the Court ruled that the City’s failure to provide adequate housing was “shocking.” Opinion, 54.

### **C. The Current Overcrowding Crises**

24. During the hearing and post-hearing proceedings in *Bowers*, the City of Philadelphia presented plans and proposals that were touted as solutions to the overcrowding and related unconstitutional conditions of confinement, including a 24-Point Plan for a coordinated criminal justice system effort at establishing constitutional conditions of confinement.

25. Most of the plans and programs presented by the City have *not* been implemented and the City continues to manifest deliberate indifference to the myriad problems that the *Bowers* litigation exposed.

26. To deal with the acute problems of overcrowding, the City has expanded triple celling and increased the dormitory population and, as a result, inmates are confined in these conditions for months at a time. The number of inmates confined in triple cells substantially exceeds the number who were triple-celled at the time of the decision in *Bowers*. On any given

date, there are well over 2,000 inmates housed in triple-cells, and hundreds more in overcrowded dormitory areas.

27. To accommodate the third inmate in cells designed for two, one of the inmates is required to sleep in a plastic shell (“blue boat”) that sits on the floor.

28. To attempt to control and service this steadily expanding population, the PPS has increasingly relied on “restricted movements” and “lockdowns,” of inmates, particularly when there are insufficient numbers of correctional officers to provide adequate services, security, and safety to inmates and to the staff.

29. As a result of the overcrowding and the failure of the City to provide adequate services, supplies, and staffing at the PPS, the plaintiffs and members of the plaintiff class have been, and without judicial intervention, will be subjected to a pervasive system of unconstitutional conditions that include (a) severe overcrowding with three inmates in cells designed for no more than two inmates and in overcrowded dormitories, (b) lack of adequate sanitation and hygiene, (c) danger to the physical and mental health and safety of inmates due to lack of sufficient numbers of correctional officers, medical personnel and other staff, (d) high risks of assault and violence, (e) the spread of disease and infections, and (f) denial of programs and services.

30. The *Bowers* Court specifically stated that unconstitutional conditions are more likely to occur as the population and use of triple-celling expands, and the Court warned against use of triple celling as a long term solution to the overcrowding problem. Opinion, 53-54. It is now more than a year from the date of the Court’s Opinion and Order of January 25, 2007 finding serious and pervasive unconstitutional conditions in the intake areas of the PPS, and the



City has failed to institute remedial measures that do more than shift the locus of the inhumane conditions to the general population.

### **Class Action Allegations**

31. Plaintiffs seek to represent, on claims for declaratory and injunctive relief, a class of all persons who have been or will in the future be held in custody in the PPS in triple cells, overcrowded dormitories, or other overcrowded housing areas, and who have been or will be subjected to the unconstitutional policies and practices alleged in this Complaint. The class is so numerous that joinder of their claims is impracticable.

32. Plaintiffs' claims are typical of the claims of the class members, in that each member of the class has suffered the same harms as a result of the defendants' acts and omissions. Plaintiffs will be adequate representatives of the class, in that they are represented by competent and skilled counsel whose interests are fully aligned with the interests of the class.

33. There are questions of law and fact common to the class, specifically whether defendants' practices and procedures, which force confinement of all members of the plaintiff class in overcrowded, unsanitary and dangerous conditions, violate the Eighth and Fourteenth Amendments to the U.S. Constitution. The policies and practices of the defendants and the resulting conditions of confinement are the same for all members of the plaintiff class.

34. The questions of fact and law that are common to the members of the class predominate over any questions affecting any individual members of the class. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

35. The defendants have acted, or refused to act, on grounds generally applicable to the class. Final injunctive and declaratory relief is appropriate with respect to all of the members of the class.

36. This action may properly be maintained under Fed. R. Civ. P. 23(b)(2).

### **Count I – Federal Constitutional Violations**

37. Plaintiffs incorporate by reference paragraphs 1-36, as if fully set forth in this paragraph.

38. The practices, policies, acts and omissions alleged in this Complaint are in violation of the Eighth and Fourteenth Amendments to the United States Constitution in that they deprive plaintiffs and members of the plaintiff class their rights to be free from deprivations of liberty without due process of law and to be free from cruel and unusual punishment. If appropriate declaratory and injunctive relief that is necessary to correct the unconstitutional conditions of confinement is not granted, the harms suffered will be irreparable, as the unconstitutional policies, practices and conditions will continue to exist for the foreseeable future.

### **Count II-State Law Claims**

39. Plaintiffs incorporate paragraphs 1-38 by reference as if fully set forth in this paragraph.

40. The policies, practices, and conditions alleged in this Complaint deprive plaintiffs of their rights under the Pennsylvania Constitution and the laws of the Commonwealth of Pennsylvania to be free of deprivations of liberty without due process of law, and to be free from cruel and unusual punishment.

## Relief

Wherefore, plaintiffs request the following relief:

1. For the named plaintiffs and the members of the plaintiff class, a declaratory judgment that the practices, policies, and conditions alleged in this Complaint are unconstitutional;
2. For the named plaintiffs and the plaintiff class, a permanent injunction that is narrowly drawn, that extends no further than necessary to correct the unconstitutional conditions, and that is the least intrusive means necessary to correct the unconstitutional conditions such that the defendants are prohibited from confining plaintiffs in triple cells and overcrowded dormitory areas, and are required to provide constitutionally mandated sanitation and environmental protection, medical care, habitable cells, and protection from assaults or other dangers to plaintiffs' lives and safety;
3. If the defendants do not provide the necessary and required constitutional conditions of confinement, plaintiffs request that a three-judge court be empanelled, and that reductions in population be ordered;
4. Reasonable attorney's fees and costs;
5. All other appropriate relief.

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