

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JULES MARQUIS WILLIAMS,

Plaintiff,

v.

ALLEGHENY COUNTY, ORLANDO
HARPER, SIMON WAINWRIGHT,
STEPHANIE FRANK, JESSE
ANDRACSIK, DAVID HUNGERMAN,
MICHAEL ISTICK, JOHN KUBICKY,
CARLA IVAN, C. RADACI, JOHN DOE
CORRECTIONS OFFICERS, AND JANE
DOE NURSE,

Defendants.

CIVIL DIVISION

No. GD-17-13369

COMPLAINT

Filed on behalf of Plaintiff,
Jules Marquis Williams

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JURY TRIAL DEMANDED

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JULES MARQUIS WILLIAMS,)	CIVIL DIVISION
)	
Plaintiff,)	No. GD-17-13369
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v.)	JURY TRIAL DEMANDED
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CORRECTIONS OFFICERS, AND JANE)	
DOE NURSE,)	
)	
Defendants.)	

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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DOE NURSE,)	
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Defendants.)	

COMPLAINT

Plaintiff Jules Marquis Williams (“Ms. Williams”), by her undersigned counsel, files this Complaint as follows:

INTRODUCTION

Ms. Williams is a transgender woman who has been detained at the Allegheny County Jail (“ACJ”) following arrests for non-violent offenses during various times in her life. The Commonwealth of Pennsylvania legally recognizes Ms. Williams as a woman, listing her sex as female on her birth certificate and state identification card. The ACJ has nevertheless refused, despite Ms. Williams’ requests, to recognize her female gender identity or house her with other women at the ACJ. Pursuant to its practices, the ACJ has instead housed Ms. Williams exclusively with male inmates despite the foreseeable risk that she would be sexually and physically assaulted, abused and harassed. Among other harms suffered by Ms. Williams consequent to being housed with men in accordance with the practices of the ACJ, Ms. Williams was sexually assaulted for four days by another inmate after being placed in protective custody with that inmate. Ms.

Williams also experienced severe sexual harassment while at the ACJ by both corrections officers and male inmates, has been forced to shower in the presence of male inmates and guards, has been forced to expose her naked body to male inmates and guards, and has been routinely strip- and pat-searched by male guards.

The ACJ was aware of the risks of harm that its practices posed to transgender women inmates. The harm to Ms. Williams is the direct consequence of those practices, as well as the ACJ's failure to adequately implement policies and training to ensure the safety and privacy of transgender women inmates. Neglecting its clear constitutional obligations as well as the requirements set forth under the Prison Rape Elimination Act ("PREA"), 42 U.S.C. § 15601, *et seq.*, the ACJ has failed to prevent foreseeable, ongoing and severe harm to Ms. Williams.

Ms. Williams brings this action pursuant to 42 U.S.C. § 1983 against Defendant Allegheny County ("Allegheny County") and ACJ officials and employees (collectively, "Defendants") for depriving her of her rights guaranteed by the Fourteenth Amendment to the United States Constitution.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 42 Pa.C.S. § 931.

2. Venue is proper in this Court pursuant to Pa.R.C.P. Nos. 1006 and 2179 as Allegheny County maintained its administrative offices in this County at all relevant times and the causes of action set forth in this action arose in this County.

PARTIES

3. Ms. Williams is an adult, African American, transgender woman residing in Allegheny County, Pennsylvania. Ms. Williams suffered significant injuries while under the care and custody of the ACJ. Ms. Williams is not presently confined at the ACJ.

4. Allegheny County is a county government organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 436 Grant Street, Pittsburgh, Pennsylvania 15219. Allegheny County operates the ACJ at 950 Second Avenue, Pittsburgh, Pennsylvania 15219. At all relevant times, Allegheny County was acting by and through its duly authorized employees, agents and/or administrators of the ACJ, who at all relevant times were acting within the course and scope of their employment, under color of state law, and in accordance with Allegheny County's policies, practices and customs.

5. Defendant Orlando Harper is employed by Allegheny County and is the Warden at the ACJ ("Warden Harper"). At all relevant times, Warden Harper acted under color of state law and was responsible for the oversight, operation and administration of the ACJ. Warden Harper is the chief policymaker at the ACJ. Warden Harper, based upon his intentional acts and/or the policies, customs and practices that he implemented at the ACJ and/or in which he acquiesced, is responsible for violating Ms. Williams' constitutional rights under the Fourteenth Amendment. Warden Harper is sued in his individual capacity.

6. Defendant Simon Wainwright is employed by Allegheny County as the Deputy Warden at the ACJ ("Deputy Warden Wainwright"). At all relevant times, Deputy Warden Wainwright acted under color of state law and was responsible for the oversight, operation and administration of the ACJ. Deputy Warden Wainwright is a policymaker at the ACJ. Deputy Warden Wainwright, based upon his intentional acts and/or the policies, customs and practices

that he implemented at the ACJ and/or in which he acquiesced, is responsible for violating Ms. Williams' constitutional rights under the Fourteenth Amendment. Deputy Warden Wainwright is sued in his individual capacity.

7. Defendant Stephanie Frank is employed by Allegheny County and is a Captain at the ACJ ("Captain Frank"). At all relevant times, Captain Frank acted under color of state law and was responsible for the oversight, operation and administration of the ACJ with respect to the implementation of PREA. Captain Frank is a policymaker at the ACJ and serves as the PREA Coordinator. Captain Frank, based upon her intentional acts and/or the policies, customs and practices that she implemented at the ACJ and/or in which she acquiesced, is responsible for violating Ms. Williams' constitutional rights under the Fourteenth Amendment. Captain Frank is sued in her individual capacity.

8. Defendant Jesse Andracsik is employed by Allegheny County and is a sergeant at the ACJ ("Sergeant Andracsik"). At all relevant times, Sergeant Andracsik acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Sergeant Andracsik is sued in his individual capacity.

9. Defendant David Hungerman is employed by Allegheny County and is a shift commander at the ACJ ("Commander Hungerman"). At all relevant times, Commander Hungerman acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Commander Hungerman is sued in his individual capacity.

10. Defendant Michael Istick is employed by Allegheny County and is a corrections officer at the ACJ ("Officer Istick"). At all relevant times, Officer Istick acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Officer Istick is sued in his individual capacity.

11. Defendant John Kubicky is employed by Allegheny County and is a corrections officer at the ACJ (“Officer Kubicky”). At all relevant times, Officer Kubicky acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Officer Kubicky is sued in his individual capacity.

12. Defendant C. Radaci is employed by Allegheny County and is a sergeant at the ACJ (“Sergeant Radaci”). At all relevant times, Sergeant Radaci acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Sergeant Radaci is sued in his individual capacity.

13. Defendant Carla Ivan is employed by Allegheny County as a psychiatric nurse at the ACJ (“Nurse Ivan”). At all relevant times, Nurse Ivan acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Nurse Ivan is sued in her individual capacity.

14. Defendant John Doe Corrections Officers were at all relevant times employed by Allegheny County as corrections officers at the ACJ. At all relevant times, Defendant John Doe Corrections Officers acted under color of state law and in accordance with the policies, customs and practices of the ACJ. John Doe Corrections Officers are sued in their individual capacities.

15. Defendant Jane Doe Nurse was at all relevant times employed by Allegheny County as a nurse at the ACJ. At all relevant times, Jane Doe Nurse acted under color of state law and in accordance with the policies, customs and practices of the ACJ. Jane Doe Nurse is sued in her official capacity.

FACTS

Background

16. Ms. Williams is a 37-year-old African American, transgender woman who was assigned the sex of male at birth.

17. Ms. Williams has identified as female since childhood.

18. When she was a teenager, Ms. Williams began living as a woman and adopted a female gender presentation, female pronouns, and feminine dress.

19. Ms. Williams began hormone therapy at age 18 to bring her gender identity and gender expression into alignment. Through hormone therapy, Ms. Williams developed full breasts, a feminine shape, and other female secondary sex characteristics.

20. In 2008, Ms. Williams had breast augmentation surgery and had her testicles surgically removed. Both surgeries were performed at Shadyside Hospital in Pittsburgh.

21. At all relevant times, the Commonwealth of Pennsylvania recognized Ms. Williams as female, including such legal recognition on her birth certificate and state identification card.

22. At all relevant times, Defendants were on notice, knew or reasonably should have known that Ms. Williams is a transgender woman.

23. In 2008, the ACJ ordered that Ms. Williams be placed on single-cell status, which on information and belief, occurred pursuant to its policy of housing transgender women in single cells. That order was in effect at all relevant times.

24. At all relevant times while detained at the ACJ, Ms. Williams faced constant threats of physical and sexual assault by male inmates, who made sexually harassing comments to her and placed notes under the door to her cell containing threatening or lewd and vulgar comments because she is transgender.

25. At all relevant times while detained at the ACJ, Ms. Williams was subjected to sexually harassing comments by ACJ staff, and was routinely and purposely mis-gendered by staff and referred to in patently offensive ways, including being called “s/him” and “faggot.”

26. At all relevant times while detained at the ACJ, Ms. Williams was routinely and purposely required to expose her naked body to male inmates and guards while showering, while receiving medications, and while being strip- and pat-searched.

27. Despite knowing that Ms. Williams is a transgender woman, the ACJ has housed Ms. Williams with men during each of her incarcerations at the facility in accordance with its practice of housing transgender women exclusively with male inmates.

The 2015 Incident

28. On July 7, 2015, Sergeant Andracsik ordered that Ms. Williams be housed in administrative/protective custody and placed in a single cell.

29. Sergeant Andracsik recorded his reasons for placing Ms. Williams in administrative/protective custody on a protective custody housing placement form, stating that Ms. Williams “is going through a sex change” and “has both male and female parts.”

30. On or about September 30, 2015, Ms. Williams was arrested and taken to the ACJ.

31. The ACJ placed Ms. Williams in a holding cell with five to fifteen male inmates during intake processing.

32. Ms. Williams remained in the holding cell for 48 to 72 hours.

33. Sergeant Radaci was the sergeant in charge of the intake processing at that time, and Commander Hungerman was the shift commander.

34. Sergeant Radaci and Commander Hungerman were aware that Ms. Williams was a transgender woman based on her appearance and her prior history at the ACJ.

35. Sergeant Andracsik was also present at that time. Sergeant Andracsik was aware that Ms. Williams was a transgender woman based on his prior encounter with her, her appearance and her prior history at the ACJ.

36. Sergeant Andracsik, recognizing Ms. Williams, announced to the male inmates at processing that Ms. Williams is a transgender woman. Sergeant Andracsik continued to harass and humiliate Ms. Williams in front of the male inmates because she is a transgender woman.

37. Prompted by Sergeant Andracsik, the male inmates in the holding cell with Ms. Williams began verbally harassing her, asking her to show them her breasts and asking vulgar questions about her anatomy.

38. Sergeant Andracsik not only made the male inmates aware that Ms. Williams is a transgender woman, and permitted the male inmates to verbally abuse and sexually harass Ms. Williams, but also made lewd and vulgar comments directly to Ms. Williams because she is a transgender woman.

39. The guards in the intake area also made disparaging comments to Ms. Williams because she is a transgender woman, asking “What the fuck is that?” and telling her to “quit whining like a sissy” and to “act like a man.”

40. Because of the abuse she experienced during intake processing, and out of fear for her safety if she were housed with men, Ms. Williams made a written request to be placed into protective custody.

41. Ms. Williams also made the written request for protective custody because she was aware of the sexual, physical and emotional abuse that other transgender women had suffered while being housed with men at the ACJ.

42. Protective custody at the ACJ is a classification of solitary confinement where inmates are relegated to their cell for 23 hours per day. Ms. Williams believed that if her request were granted that she would be housed in a cell by herself.

43. The ACJ has a policy, custom or practice of intentionally housing transgender women with male inmates regardless of the female detainee's gender identity, gender expression, or sex listed on her birth certificate or other official documents.

44. The form clearing Ms. Williams for segregation in protective custody stated that Ms. Williams was on hormone replacement therapy.

45. In response to Ms. Williams' request, she was placed into protective custody, but in a cell with a male inmate.

46. Sergeant Radaci and Commander Hungerman signed off on Ms. Williams' placement in protective custody in a cell with a male inmate.

47. On information and belief, despite the ACJ's policy of placing transgender women in single cells, ACJ staff have a practice of placing transgender women in cells with men.

48. On information and belief, the ACJ is aware that its staff routinely violate its policy of single celling transgender women, and acquiesce in its staff's practice of placing transgender women in cells with men.

49. No ACJ staff took any action to determine whether the male inmate with whom Ms. Williams was housed posed a threat of physical or sexual assault to Ms. Williams, which included taking no action to determine whether the male inmate with whom Ms. Williams was housed was an accused or convicted sex offender or sexually violent predator.

50. Ms. Williams verbally objected to being placed in a cell with a male inmate.

51. After being placed in a protective custody cell with the male inmate, that inmate sexually assaulted Ms. Williams repeatedly over the next four days.

52. Ms. Williams sought the assistance of the ACJ staff to protect her from the ongoing sexual assaults by pressing the emergency communication system button in her cell and requesting to be moved, but her requests were ignored.

53. Ms. Williams did not feel safe reporting the sexual assaults in the presence of her attacker.

54. While in line to receive medication, Ms. Williams waited at the end of the line to report the sexual assaults to Officer Istick and Jane Doe Nurse outside the presence of her attacker.

55. Officer Istick told Ms. Williams that she needed to submit a written form to report the sexual assaults, requiring her to go through an administrative process to save her from the abuse, but said he did not have any forms with him at that time. He told Ms. Williams that he would slip a form under her cell door but never did.

56. On information and belief, neither Officer Istick nor Jane Doe Nurse took any action to protect Ms. Williams following her report to them of the ongoing sexual assault.

57. On October 5, 2015, after sexually assaulting Ms. Williams for four days, the male inmate was removed from her cell.

58. No ACJ staff member provided any follow up support to Ms. Williams.

59. Ms. Williams was not provided with any opportunity to shower outside the presence of male inmates after this incident, nor at any other time while in protective custody.

60. On October 13, 2015, Ms. Williams informed her public defender, Andrew Capone, about the sexual assaults. Attorney Capone informed the court of Ms. Williams' reports of physical and sexual abuse at the ACJ, stating on the record that:

Ms. Williams is a transgender individual, born male and she identifies as female. She has been in the Allegheny County Jail for about two weeks now. And she has indicated to me that she's been lodged in the male section of the jail. While she's there, she's been subject to physical and sexual abuse. She said she's afraid to take a shower because she's forced to shower with the males. She said they've been coming to her cell at night and masturbating on her and that she has been raped.

So we wanted to make sure – I wanted to bring that to the attention of Your Honor. I have contacted Assistant District Attorney Julie Capone. I understand she may have some managerial capacity where maybe she can look into this with the county.

61. Attorney Capone also sent an e-mail to a supervisor at the District Attorney's Office about the sexual abuse Ms. Williams reported. That e-mail was forwarded to the ACJ for investigation.

62. Pursuant to ACJ policies, practices and procedures, Warden Harper, Deputy Warden Wainwright, and Captain Frank are notified of all allegations of sexual assault at the ACJ. On information and belief, each of those individuals was thus made aware of Ms. Williams' allegations of emotional and sexual abuse at the ACJ.

63. As a direct consequence of the emotional and sexual abuse she experienced at the ACJ, Ms. Williams manifested severe post-traumatic stress disorder ("PTSD") and insomnia, and her previously diagnosed depression worsened.

64. Following her release from the ACJ on October 13, 2015, Ms. Williams attempted suicide and was taken into emergency and psychiatric care. At that time, Ms. Williams reported to her mental health care providers that she was sexually assaulted at the ACJ.

The 2016 Incident

65. On or about July 19, 2016, Ms. Williams called the police for help with her abusive boyfriend. When the police arrived, they arrested Ms. Williams' boyfriend for domestic abuse.

The police also arrested Ms. Williams because of an outstanding warrant on charges that were later withdrawn.

66. ACJ staff again placed Ms. Williams in a holding cell with men. That cell was adjacent to the holding cell where ACJ staff placed Ms. Williams' boyfriend.

67. Ms. Williams asked Sergeant Radaci to put her in a single cell in general population if she were going to be housed with men. She stated that she did not want to be placed in protective custody because she was raped by a male inmate while in protective custody the last time she was at the ACJ.

68. Sergeant Radaci nevertheless placed Ms. Williams in administrative/protective custody for safety reasons.

69. On information and belief, the housing classification administrative/protective custody is used when an inmate refuses to consent to protective custody, but ACJ staff believe such custody is necessary for the inmate's safety.

70. Immediately after being transferred to the protective custody pod, where she had been repeatedly sexually assaulted during her previous incarceration, Ms. Williams experienced flashbacks of the assaults, which caused panic attacks, verbal outbursts and intense fear.

71. ACJ staff called Nurse Ivan to provide assistance to Ms. Williams. Ms. Williams reported her prior sexual assaults and her fear for her safety to Nurse Ivan, but told Nurse Ivan that she was not suicidal.

72. Nurse Ivan nevertheless placed Ms. Williams on suicide watch in a suicide cell on the male mental health pod.

73. The “suicide cell” is a cell within a mental health pod at the ACJ that contains only a metal bed and toilet, and has an entirely glass front so the inmate can always be seen by ACJ staff, as well as by male inmates on the pod.

74. The only clothing provided to inmates placed in the suicide cell is a “turtle suit,” a tear-resistant, single-piece garment that does not cover the body fully.

75. After placing Ms. Williams in the suicide cell, Nurse Ivan ordered Ms. Williams to remove all her clothing.

76. After Ms. Williams removed her clothing, she was forced to remain naked, in full view of the other inmates on the mental health pod, all of whom were male, for approximately 30 minutes while Nurse Ivan located a turtle suit for her.

77. While in the suicide cell, Ms. Williams heard ACJ staff make statements to male inmates on that pod to “see the tranny on display” or “come see the freak show.”

78. The lights in Ms. Williams’ cell were on for 24 hours a day, preventing her from sleeping.

79. After approximately five days, the ACJ removed Ms. Williams from the suicide cell and placed her back on a male pod in an administrative custody cell.

80. Ms. Williams did not have a cellmate, but the other inmates in administrative custody were violent offenders.

81. While in administrative custody, Ms. Williams was afraid to leave her cell.

82. Like protective custody, administrative custody at the ACJ is a classification of solitary confinement where inmates are relegated to their cell for 23 hours per day.

83. Inmates in administrative custody have communal meals, but Ms. Williams did not eat with the other inmates because she feared for her safety.

84. Ms. Williams either did not eat, or she would leave her cell to quickly grab food and take it back to her cell to eat alone.

85. As a result, Ms. Williams was often hungry and lost weight.

86. While in administrative custody, Ms. Williams requested that she be provided with the opportunity to take a shower outside the presence of male inmates for both privacy and safety reasons. Her request was denied.

87. As a result, Ms. Williams did not take a shower during the 19 days she was in administrative custody.

88. The ACJ failed to provide Ms. Williams with needed medication, including her hormone therapy, while she was in administrative custody.

89. While in administrative custody, Ms. Williams was visited by Captain Frank and a representative from Pittsburgh Action Against Rape (“PAAR”). Ms. Williams told Captain Frank about being sexually assaulted by a male inmate at the ACJ in 2015. On information and belief, Captain Frank was already aware of Ms. Williams’ rape at the ACJ in 2015.

90. Shortly after the meeting with Captain Frank, Ms. Williams was moved to a maximum-security male pod and placed in a single cell. ACJ staff then forced Ms. Williams to take a shower in view of male inmates and male guards.

91. Deputy Warden Wainwright visited Ms. Williams in the maximum-security pod the following morning.

92. Deputy Warden Wainwright told Ms. Williams that he was aware of her allegation that she had been sexually assaulted by another inmate during her prior incarceration at the ACJ, but he said there was nothing that he nor anyone at the ACJ could do for her because the sexual assaults were in the “past.”

93. Ms. Williams asked Deputy Warden Wainwright to move her to a female pod, but he refused her request.

94. On August 18, 2016, Deputy Warden Wainwright sent an email to Warden Harper recommending that Ms. Williams be moved from administrative custody to a minimum-security pod in male general population.

95. Warden Harper agreed and, as a result, the ACJ moved Ms. Williams to a single cell in a minimum-security pod in male general population.

96. Ms. Williams was not provided with any opportunity to shower outside the presence of male inmates while in male general population.

97. Ms. Williams was released from the ACJ on or about August 22, 2016.

98. After her release, Ms. Williams again attempted suicide and was taken into emergency and psychiatric custody. At that time, Ms. Williams again told her medical health care providers about being sexually assaulted at the ACJ in October 2015.

The 2017 Incident

99. On or about May 26, 2017, Ms. Williams was arrested and taken to the ACJ.

100. As of May 26, 2017, the ACJ classified Ms. Williams as having depression and PTSD. After spending approximately 48 to 72 hours in an intake holding cell around male inmates, Ms. Williams was moved to a cell in a male mental health housing unit and placed on general observation.

101. On May 29, 2017, a physician assistant cleared Ms. Williams from the mental health unit, but Deputy Warden Long ordered that Ms. Williams remain in the mental health unit until he conducted a housing placement meeting.

102. ACJ staff denied Ms. Williams an opportunity to shower outside the presence of male inmates while she was on the mental health unit.

103. While she was on the mental health unit, Ms. Williams was assaulted by Officer Kubicky, who called her a “fairy” and threw a roll of toilet paper at her, hitting her in the face.

104. During this time, Ms. Williams filed written grievances about the physical and sexual abuse she previously experienced while incarcerated at the ACJ, specifically including the four days she was sexually assaulted while in protective custody.

105. Ms. Williams filed a grievance asking that Officer Istick be removed from her pod because his presence exacerbated the PTSD she suffered from the four days she was sexually assaulted in 2015. Officer Istick was a particular trigger of Ms. William’s PTSD because she reported the ongoing sexual assaults to him, and he took no action to protect her.

106. Ms. Williams also filed a grievance requesting to be moved to a female pod.

107. On July 26, 2017, a mental health specialist at the ACJ cleared Ms. Williams from the mental health housing unit and requested in writing that Ms. Williams be transferred to female general population housing.

108. This request was sent to Warden Harper, Deputy Warden Wainwright and Captain Frank, among others.

109. Despite this transfer request, the ACJ moved Ms. Williams to a cell in male general population housing on or about July 28, 2017.

110. On or about July 29, 2017, the day after the ACJ placed Ms. Williams in male general population housing, a male inmate physically assaulted Ms. Williams.

111. Because of this assault, Captain Frank ordered that Ms. Williams be moved to administrative/protective custody and placed in a single cell on July 31, 2017.

112. Ms. Williams remained in the male administrative/protective custody pod until her release on or about August 14, 2017.

PREA Standards

113. PREA was enacted, among other reasons, to address the known risks of emotional and physical harm posed through housing transgender individuals in institutional environments.

114. PREA sets forth national standards that correctional institutions must implement to prevent rape in prisons and requires that all agencies “have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment.” 28 C.F.R. § 115.11.

115. PREA requires that institutional facilities provide training about sexual abuse and sexual harassment to employees who have contact with inmates. The training must include instruction on the institutional facility’s zero-tolerance policy for sexual abuse and sexual harassment, prevention, detection, and reporting of sexual abuse and sexual harassment, the institutional facility’s policies and procedures for responding to reports of sexual abuse and harassment, how to communicate effectively and professionally with transgender inmates, the right of inmates to be free from abuse and retaliation, the dynamics of abuse in confinement, and how to avoid inappropriate relationships with inmates. 28 C.F.R. § 115.31.

116. PREA additionally requires institutions to provide training to security staff on conducting searches of transgender inmates in a professional and respectful manner, and in the least intrusive manner possible. The standards describe four options for conducting searches of transgender inmates: (1) searches conducted only by medical staff; (2) pat searches of adult inmates conducted by female staff only; (3) asking inmates to identify the gender of staff with whom they would feel most comfortable conduct the search; and (4) searches conducted in accordance with the inmate’s gender identity. 28 C.F.R. § 115.15(e).

117. PREA standards state that “[b]eing transgender is a known risk factor for being sexually victimized in confinement settings.” U.S. Department of Justice, March 24, 2016, Memorandum on PREA Standards.

118. PREA mandated the Bureau of Justice Statistics (“BJS”) to collect data on sexual victimization in prisons and jails in the United States, including sexual victimization perpetrated on transgender individuals in those facilities. PREA also sought to address the underreporting of sexual abuse for transgender individuals while they are incarcerated, whether as the result of shame, fear, retaliation or other barriers to reporting.

119. According to a National Inmate Survey (“NIS”) conducted by BJS under PREA, transgender inmates are nine times more likely than other inmates to encounter sexual harassment or assault within the first 12 months of imprisonment. According to the NIS, 35 percent of transgender inmates in prisons and jails experienced one or more incidents of sexual assault at the hands of facility staff or other inmates in a one-year period. More than 40 percent of transgender inmates were also physically assaulted during the same time according to the NIS.

120. BJS has found that transgender inmates are disproportionately incarcerated, and that they are mistreated and sexually victimized in prisons and jails in the United States. Because of that, the standards that PREA sets forth contain limits to cross-gender viewing and searches, require employee training, and emphasize the need for institutions to make meaningful assessments of the extent to which transgender inmates are vulnerable and/or at risk of victimization and physical and/or sexual abuse.

121. PREA standards require that facility and housing assignments be made on a case-by-case basis, and that decisions about such assignments, including whether to assign a transgender individual to male or female housing, be based on an individualized assessment.

122. Under PREA standards, these assessments must consider the transgender inmate's gender identity and give serious consideration to the inmate's own views with respect to safety. 28 C.F.R. § 115.42(c), (e).

123. PREA requires that institutional facilities assess inmates for sexual assault risk factors when making housing determinations to ensure inmate safety, including whether "the inmate has previously been incarcerated," "the inmate has previously experienced sexual victimization," and the "inmate's own perception of vulnerability." 28 C.F.R. § 115.41(d).

124. PREA requires institutional facilities to implement policies and procedures that enable transgender female inmates to use the bathroom and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia. 28 C.F.R. § 115.15(d).

125. PREA further requires institutional facilities to implement policies and procedures that enable transgender female inmates the opportunity to shower separately from other inmates. The separation may be accomplished through physical separation, or by time-phasing or scheduling. Transgender inmates should be afforded the opportunity to disrobe, shower, and dress apart from other inmates. 28 C.F.R. § 115.42(f).

Practice and Custom of Victimization of Transgender Inmates at the ACJ

126. Transgender inmates are routinely incarcerated at the ACJ. Defendants are responsible for incarcerating such inmates under conditions that do not expose them to a substantial risk of serious physical and/or emotional harm.

127. The ACJ has adopted policies implementing PREA and the standards it sets forth, but fails to follow or adhere to those standards in custom or practice regarding its transgender inmate population.

128. Defendants are aware of the vulnerabilities and the risk of physical and/or emotional harm to which the transgender inmate population is exposed, yet the ACJ, under the direction of Warden Harper, Deputy Warden Wainwright, and Captain Frank, fail to provide adequate training and/or necessary supervision of corrections officers and/or other staff to insure the safety of its transgender inmate population.

129. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank are responsible for implementing policies pursuant to PREA for the ACJ.

130. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank fail to implement adequate procedures, customs, practices or policies to conduct individualized evaluations and determine whether transgender inmates should be housed at the ACJ consistent with their gender identity.

131. The ACJ houses and classifies transgender female inmates as males, regardless of their gender identity, gender expression, whether they have socially transitioned before entering the jail, or whether they have had any reconstructive or gender-affirming surgery. This policy exposes transgender inmates like Ms. Williams to a substantial risk of physical and emotional harm.

132. At all relevant times, Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank failed to enforce PREA cross-gender viewing and searching standards at the ACJ such that the breasts, buttocks, and genitalia of transgender female inmates at the ACJ were viewed by nonmedical staff.

133. At all relevant times, Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank fail to enforce PREA's showering standards for transgender

inmates, requiring transgender women inmates to shower with male inmates, regardless of the substantial risk of physical harm, emotional distress, and sexual abuse.

134. As part of the custom and practice at the ACJ, employees, agents and/or administrators of the ACJ receive no discipline for their involvement in humiliating, harassing, and/or verbally or physically assaulting transgender inmates.

Defendants Unlawfully Harmed Ms. Williams

135. The policy, custom and practice of the ACJ in routinely housing transgender women with male inmates, and the deliberate indifference to the harm it produces, caused harm to Ms. Williams.

136. The failure of the ACJ and Warden Harper, Deputy Warden Wainwright, and Captain Frank to provide adequate training to staff regarding transgender inmates, and the deliberate indifference to the need for this training, caused harm to Ms. Williams.

137. The policies, customs and practices of the ACJ caused Ms. Williams to suffer sexual and physical assaults, verbal abuse and harassment, and severe emotional distress.

138. Because of the policies, customs and practices of the ACJ, ACJ staff consistently referred to Ms. Williams by male pronouns and frequently called her names like “s/him” (a combination of “she” and “him”) and “faggot,” which were intended to degrade her because she is a transgender woman.

139. The policies, customs, and practices of the ACJ requiring transgender women inmates to shower in view of male inmates and guards caused Ms. Williams emotional distress.

140. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank were all aware of PREA’s mandates, and the need to comply with such mandates to ensure the health and safety of female transgender inmates. Their failure to implement such standards

and procedures constitutes deliberate indifference to the known risks of harm to transgender inmates at the ACJ, including Ms. Williams.

CAUSES OF ACTION

COUNT I

Violation of Ms. Williams' Rights under the Fourteenth Amendment

(As to Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank, and Sergeant Radaci)

141. Ms. Williams realleges and incorporates by reference the foregoing paragraphs.

142. Ms. Williams, as a transgender woman, faced a substantial vulnerability to sexual assault and harassment and physical harm while under the care and custody of the ACJ. Due to the severity and obviousness of the risks facing transgender inmates, PREA required Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank to make an individual determination regarding Ms. Williams' housing at the ACJ.

143. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank were deliberately indifferent to Ms. Williams' safety and dignity.

144. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank created an official policy, custom, or practice of intentionally housing transgender women with male detainees and inmates at the ACJ, regardless of the female detainee's gender identity, gender expression, or sex listed on their birth certificate or other official documents. This policy, custom, or practice was created with deliberate indifference to the safety and dignity of female transgender detainees. This policy was in effect at each of the times Ms. Williams was detained at the ACJ, and this policy caused her injuries.

145. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank failed to train ACJ employees on the need to individually evaluate female transgender

detainees to determine whether the detainee should be placed in a cell alone or with other female detainees, instead of with male detainees, and failed to discipline ACJ employees who placed vulnerable transgender women in cells with male detainees. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank were deliberately indifferent to the risk that placing transgender women with male detainees in a holding cell would likely lead to sexual harassment and abuse of transgender women.

146. Sergeant Radaci made the decision to place Ms. Williams in a holding cell with men in October 2015 and, in doing so, acted with deliberate indifference to Ms. Williams' safety. Sergeant Radaci knew that placing Ms. Williams with male detainees in a holding cell would likely lead to her being injured, but intentionally, deliberately, or recklessly disregarded that risk.

147. Sergeant Radaci made the decision to place Ms. Williams in the male administrative/protective custody pod during intake booking in 2016 and, in doing so, acted with deliberate indifference to Ms. Williams' safety and dignity. Sergeant Radaci knew that placing Ms. Williams in the male administrative/protective custody pod would likely lead to her being injured, but intentionally, deliberately, or recklessly disregarded that risk.

148. Deputy Warden Wainwright made the decision to place Ms. Williams in a cell in a male general population pod in 2016 and, in doing so, acted with deliberate indifference to Ms. Williams' safety and dignity. Deputy Warden Wainwright knew that placing Ms. Williams in a male general population pod would likely lead to her being injured, but intentionally, deliberately, or recklessly disregarded that risk. Warden Harper approved Deputy Warden Wainwright's decision to place Ms. Williams in a cell in the male general population pod in deliberate disregard of the risk that the placement would lead to Ms. Williams being injured.

149. Each individual Defendant acted individually, with supervisory authority and/or in accordance with the policy, custom or practice of the ACJ of housing transgender women like Ms. Williams with men while detained at the jail, in deliberate indifference to the significant risk of serious physical and/or emotional harm posed by this policy, custom or practice to transgender women inmates like Ms. Williams.

COUNT II

Violation of Ms. Williams' Rights under the Fourteenth Amendment

(As to Warden Harper, Deputy Warden Wainwright, and Captain Frank, Sergeant Radaci, Commander Hungerman, Officer Istick, John Doe Corrections Officers, and Jane Doe Nurse)

150. Ms. Williams realleges and incorporates by reference the foregoing paragraphs.

151. John Doe Corrections Officers, Sergeant Radaci, and Commander Hungerman were deliberately indifferent to Ms. Williams' safety and dignity.

152. John Doe Corrections Officers placed Ms. Williams in a protective custody cell with a male inmate over her objections and with deliberate indifference to the risk that being housed in a cell with a male inmate would lead to her being injured.

153. Sergeant Radaci and Commander Hungerman had actual knowledge of the decision to place Ms. Williams in a cell with a male inmate after she requested protective custody status out of fear for her life and, in doing so, acted with deliberate indifference to Ms. Williams' safety and dignity. Sergeant Radaci and Commander Hungerman knew that placing Ms. Williams in a protective custody cell with a male inmate would likely lead to her being injured, but intentionally, deliberately, or recklessly disregarded that risk.

154. Officer Istick was aware that Ms. Williams had been sexually assaulted while in protective custody but failed to take any action to protect Ms. Williams despite the substantial risk that Ms. Williams would continue to be sexually assaulted.

155. Jane Doe Nurse was aware that Ms. Williams had been sexually assaulted while in protective custody but failed to take any action to protect Ms. Williams despite the substantial risk that Ms. Williams would continue to be sexually assaulted.

156. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank failed to adequately train and supervise ACJ staff in deliberate disregard of the risk that placing transgender women in cells with male inmates would lead to transgender women being injured.

COUNT III

Violation of Ms. Williams' Rights under the Fourteenth Amendment

(As to Nurse Ivan)

157. Ms. Williams realleges and incorporates by reference the foregoing paragraphs.

158. Nurse Ivan was deliberately indifferent to Ms. Williams' safety and dignity.

159. Nurse Ivan made the decision to place Ms. Williams in a suicide cell enclosed by transparent glass walls, compelled Ms. Williams to remove all her clothing within that cell, and left Ms. Williams naked in that cell for approximately 30 minutes in full view of male inmates and guards. Nurse Ivan knew that requiring Ms. Williams to fully disrobe in view of male inmates and guards would likely lead to her being injured, but intentionally, deliberately, or recklessly disregarded that risk.

COUNT IV

Violation of Ms. Williams' Rights under the Fourteenth Amendment

(As to Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank)

160. Ms. Williams realleges and incorporates by reference the foregoing paragraphs.

161. Allegheny County, Warden Harper, Deputy Warden Wainwright and Captain Frank were deliberately indifferent to Ms. Williams' safety and dignity.

162. At all relevant times, Ms. Williams was deprived of the opportunity to shower outside the view of male inmates and male guards and was forced at least once to shower in view of male inmates and male guards.

163. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank created an official policy, custom, or practice of failing to provide transgender women with an opportunity to shower separately from male inmates. This policy, custom, or practice was created with deliberate indifference to the safety and dignity of female transgender detainees. This policy was in effect at each of the times Ms. Williams was detained at the ACJ, and this policy caused her injuries.

COUNT V

Violation of Ms. Williams' Rights under the Fourteenth Amendment

(As to Officer Kubicky and Sergeant Andracsik)

164. Ms. Williams realleges and incorporates by reference the foregoing paragraphs.

165. Officer Kubicky and Sergeant Andracsik were deliberately indifferent to Ms. Williams' safety and dignity.

166. Officer Kubicky assaulted Ms. Williams and called her derogatory names, and in doing so, acted with deliberate indifference to Ms. Williams' safety and dignity. Officer Kubicky

knew that assaulting Ms. Williams would likely cause her injury, but intentionally, deliberately, or recklessly disregarded that risk.

167. Sergeant Andracsik verbally abused Ms. Williams by calling her derogatory names and intentionally caused other inmates to verbally abuse Ms. Williams, and in doing so, acted with deliberate indifference to Ms. Williams' safety and dignity. Sergeant Andracsik knew that verbally abusing Ms. Williams and apprising the other inmates that she was a transgender woman would likely cause her injury, but intentionally, deliberately, or recklessly disregarded that risk.

168. Allegheny County, Warden Harper, Deputy Warden Wainwright, and Captain Frank failed to adequately train, supervise, and discipline ACJ employees regarding the treatment of transgender detainees and inmates in deliberate indifference to the risk that ACJ employees would mistreat transgender detainees and inmates because they are transgender.

PRAYER FOR RELIEF

WHEREFORE, Ms. Williams requests that this Court grant the following relief:

- a. Declaratory judgment that Defendants violated Ms. Williams' constitutional rights under the Fourteenth Amendment;
- b. Compensatory damages against all defendants;
- c. Punitive damages against all individually named defendants;
- d. Attorney's fees and costs; and
- e. All other relief this Court deems just and proper.

Respectfully submitted,

THE LAW OFFICES OF TIMOTHY P. O'BRIEN



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ACLU OF PENNSYLVANIA

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VERIFICATION

I, Alec B. Wright, Esquire, Attorney for Jules Marquis Williams, do hereby state that the facts above set forth in this Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: November 6, 2017



Alec B. Wright, Esquire
Pa. ID No. 316657

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint was served this 6th day of November 2017, via e-mail upon the following:

Lee M. Dellecker, Esquire
Assistant County Solicitor
Allegheny County Law Department
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445 Fort Pitt Boulevard
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(Counsel for Defendants)



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