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

THOMAS REMICK, et al., on behalf of themselves and all others similarly situated,	:	**No. 2:20-cv-01959-BMS**
Plaintiffs-Petitioners,	:	
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

PLAINTIFFS' AMENDED MOTION FOR CLASS CERTIFICATION

Pursuant to Federal Rule of Civil Procedure 23(b)(2), Plaintiffs hereby move for an Order certifying a class of persons who are entitled to injunctive and declaratory relief, consisting of:

> All persons who are currently or will be in the future confined in the Philadelphia Department of Prisons, and are or will be subjected to unconstitutional and otherwise illegal conditions of confinement, including extended lockdowns; lack of out-of-cell time; denial of timely and adequate medical care; lack of protection from physical assaults; denial of access to the courts, to legal counsel, and to timely legal mail; lack of due process in disciplinary proceedings; lack of access to necessary exercise; inadequate sanitation, hygiene, quarantine, and separation practices and procedures to protect against COVID-19 infections.

In support of the Motion, Plaintiffs incorporate by reference the accompanying Memorandum of Law.

Respectfully submitted,

/s/ Su Ming Yeh
Su Ming Yeh (PA 95111)
/s/ Matthew A. Feldman
Matthew A. Feldman (PA 326273)
/s/ Grace Harris
Grace Harris (PA 328968)
/s/ Sarah Bleiberg
Sarah Bleiberg (PA 327951)
PENNSYLVANIA INSTITUTIONAL LAW PROJECT
718 Arch St., Suite 304S
Philadelphia, PA 19106
(215)-925-2966
smyeh@pailp.org
mfeldman@pailp.org
gharris@pailp.org
sbleiberg@pailp.org

/s/ David Rudovsky
David Rudovsky (PA 15168)
/s/ Jonathan H. Feinberg
Jonathan H. Feinberg (PA 88227)
/s/ Susan M. Lin
Susan Lin (PA 94184)
KAIRYS, RUDOVSKY, MESSING, FEINBERG, & LIN, LLP
718 Arch Street, Suite 501S
Philadelphia, PA 19106
(215) 925-4400
drudovsky@krlawphila.com
jfeinberg@krlawphila.com
slin@krlawphila.com

/s Bret Grote
Bret Grote (PA 317273)
/s Nia Holston
Nia Holston (PA 327384)
/s Rupalee Rashatwar
Rupalee Rashatwar (FL 1011088)*
ABOLITIONIST LAW CENTER
PO Box 31857
Philadelphia, PA 19104
(412) 654-9070
bretgrote@abolitionistlawcenter.org
nia@alcenter.org
rupalee@alcenter.org

/s/ Will W. Sachse
Will W. Sachse (PA 84097)
/s/ Benjamin R. Barnett
Benjamin R. Barnett (PA 90752)
/s/ Mary H. Kim
Mary H. Kim*
/s/ Nicolas A. Novy
Nicolas A. Novy (PA 319499)
DECHERT LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
(215) 994-2496
Will.Sachse@dechert.com
Ben.Barnett@dechert.com
Mary.Kim@dechert.com
Nicolas.Novy@dechert.com

* indicates counsel who will seek admission or *pro hac vice* admission

Attorneys for Petitioners/Plaintiffs

DATE: January 7, 2022

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THOMAS REMICK, et al., on behalf of themselves and all others similarly situated,	:	**No. 2:20-cv-01959-BMS**
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CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFFS' AMENDED MOTION FOR CLASS CERTIFICATION

I. INTRODUCTION

Plaintiffs commenced this class action seeking relief from unconstitutional conditions of confinement that existed at that time and which, absent judicial intervention, will continue to exist in the Philadelphia Department of Prisons ("PDP"). Due in large part to severe understaffing in the PDP and, in particular, lack of sufficient correctional officer staffing and deployment, the prison population has been subjected to conditions that include extended lockdowns; lack of out-of-cell time; denial of timely and adequate medical and mental health care; lack of protection from physical assaults; denial of access to the courts, to legal counsel, and to timely legal mail; lack of due process in disciplinary proceedings; lack of access to necessary exercise; inadequate sanitation, hygiene, quarantine, and separation policies and procedures to protect against COVID-19 infections; and other conditions that cause and exacerbate mental illness and mental distress.

Under current PDP policies and practices, all class members are currently subjected to or are at a high risk of being subjected to unconstitutional conditions of confinement as alleged in the Second Amended Complaint. In these circumstances, Plaintiffs seek certification of a class of:

> All persons who are currently or will be in the future confined in the Philadelphia Department of Prisons, and are or will be subjected to unconstitutional and otherwise illegal conditions of confinement, including extended lockdowns; lack of out-of-cell time; denial of timely and adequate medical care; lack of protection from physical assaults; denial of access to the courts, to legal counsel, and to timely legal mail; lack of due process in disciplinary proceedings; lack of access to necessary exercise; inadequate sanitation, hygiene, quarantine, and separation practices and procedures to protect against COVID-19 infections.

Class certification of Plaintiffs' claims for declaratory and injunctive relief is warranted under Rule 23(b)(2). The class members are so numerous that joinder of their claims is impracticable. There are questions of law and fact common to the class, and Plaintiffs' claims are typical of the claims of the class members. Plaintiffs will adequately represent the claims of the class, and Defendants have acted, or refused to act, on grounds generally applicable to the class. The Court should grant Plaintiffs' motion and certify the class for purposes of Plaintiffs' claims for declaratory and injunctive relief.

II. BACKGROUND

Plaintiffs filed this class action under 42 U.S.C. § 1983, 28 U.S.C. § 2241, and the Americans with Disabilities Act, on April 20, 2020, to compel Defendants City of Philadelphia and Commissioner Blanche Carney to protect individuals incarcerated in the PDP from the risks of serious harm they face from the twin dangers of COVID-19 and prolonged isolation in their cells. *See* Class Action Complaint for Declaratory and Injunctive Relief and Petition for Writs of Habeas Corpus (ECF No. 1) and Plaintiffs' First Amended Complaint and Order approving

filing. (ECF Nos. 99, 100). At the time of the original Complaint, Plaintiffs filed a Motion for Class Certification. (ECF No. 2).

On April 23, 2020, Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction, seeking an order requiring Defendants to ensure that conditions of confinement in PDP facilities complied with the then-current health and safety standards necessary to protect the Plaintiff class from the risks associated with COVID-19 and to provide humane conditions of confinement, including adequate out-of-cell time consistent with constitutional requirements. (ECF No. 18). The parties reached a partial settlement agreement, which was approved by the Court and entered as a Consent Order on Partial Settlement Agreement on June 3, 2020. (ECF No. 35).

In addition to various measures intended to mitigate the risks of harm from COVID-19 and ensure adequate access to counsel for members of the Plaintiff class, the Consent Order required Defendants to provide a minimum of 45 minutes of daily out-of-cell time for all individuals incarcerated in the PDP by June 10, 2020, and to make efforts to increase out-of-cell time thereafter, with Plaintiffs reserving the right to seek further relief from the Court regarding out-of-cell time, if necessary. (*Id.* ¶ 4(a)).

Defendants failed to comply with various terms of the Consent Order, including the requirement of 45 minutes of daily out-of-cell time. Further, the prolonged in-cell confinement of incarcerated people resulted in increased tension and adverse mental health consequences. (*See* Joint Status Reports, ECF Nos. 44, 45, 46, 48, 49, 52, and accompanying exhibits). Defendants admitted that there was not compliance with the Court Order that required incarcerated people in PDP custody to receive 45 minutes of daily out-of-cell time. (*See* Joint Status Reports, ECF Nos. 44, 45, 46, 48).

Plaintiffs filed multiple declarations with the Court documenting systemic lack of compliance with the Court's out-of-cell time Order. (*See* Joint Status Report of December 24, 2019: Exhibit A, ECF No. 56-1; Joint Status Report of January 12, 2021: Exhibit B, ECF No. 61-2). On January 13, 2021, the Court entered an Interim Order, finding that: (a) under the shelter-in-place protocol, incarcerated individuals were not receiving the 45 minutes of daily out-of-cell time required by the Consent Order; (b) it would be "feasible to permit persons from at least three cells out at a time, in 45-minute time frames, to separately shower, use phones, and engage in limited exercise, while still maintaining social distancing"; and (c) "[t]he current shelter-in-place policy . . . keeps incarcerated people in their cells for nearly 24 hours a day, and such prolonged confinement is harmful to the mental and physical health of incarcerated individuals." (ECF No. 62). The Court again ordered Defendants to provide all individuals incarcerated in PDP facilities with a minimum of 45 minutes of daily out-of-cell time and stated that the Court would consider further orders on out-of-cell time after the then-pending universal COVID-19 testing was completed. *Id.*

On January 28, 2021, the Court ordered Defendants to increase out-of-cell time and provide all individuals incarcerated in PDP with a minimum of two hours of daily out-of-cell time by February 10, 2021, and a minimum of three hours of daily out-of-cell time by February 24, 2021, with exceptions made only for individuals on "a medically necessary quarantine" and "operational emergencies." (Order of January 28, 2021, ECF No. 63).

On May 4, 2021, the Court ruled that Defendants had failed to comply with the Court's Order of January 28, 2021:

> [T]here has been a pattern of noncompliance with the January 28, 2021 Order, particularly in the Curran-Fromhold Correctional Facility. Though concentrated at CFCF, reports from class members at each of the PDP facilities that they have regularly been

> denied the required amount of out-of-cell time have been filed with the Court on a regular basis…. The PDP Deputy Wardens (who have been designated as the City's monitors for compliance, as required by Order of the Court of December 18, 2020 (ECF No. 55)), and the City, have also reported that staffing shortages and other emergent events have impeded the ability of the facilities to meet or exceed the three hours of recreation time…. [**B]ased on a full review of the record, particularly the Deputy Wardens' certifications, the Court finds that Defendants have not complied with the Order of January 28, 2021.**

(Interim Order of May 4, 2021, ¶ 3, ECF No. 70) (emphasis added).

On May 14, 2021, Plaintiffs filed a Motion for Contempt and Sanctions for Defendants' failure to comply with the January 28, 2021 Court Order. (ECF No. 71). Thereafter, this Court, having found "grounds for holding the City in civil contempt of court," issued an Order on May 20, 2021, requiring the City to show by clear and convincing evidence it was in compliance with the Order of January 28, 2021, or pay a compensatory fine of $50,000 for past violations and daily fines of $10,000 (to be doubled every two weeks). (ECF No. 74). On June 23, 2021, this Court approved a Settlement Agreement that resolved the Motion for Contempt pursuant to which the Defendants paid $125,000 to two Philadelphia-based bail funds. (ECF No. 81).

On September 14, 2021, the Court entered an Order setting the date of January 22, 2022, for the PDP to "return to full pre-COVID-19 operations with normal out-of-cell times of approximately eight hours per day [and] full attorney, family, and friends' visitation; and full programming." (ECF No. 93, ¶ 1). The Court ordered Defendants to take interim steps to increase out-of-cell time, visits, and programs, including "a minimum of 5 hours daily out-of-cell time for persons in vaccinated housing units, 4 hours for persons in other non-quarantine housing areas, 3 hours for persons in quarantined housing areas, and 1 hour for persons housed in segregation units" as of November 6, 2021, *id.* ¶ 3, and an increase in out-of-cell time in each of those types of housing units to 6 hours, 5 hours, 4 hours, and 2 hours, respectively, by December

22, 2021. *Id.* ¶ 4. This increase in out-of-cell time was to be facilitated by increases in correctional officer staffing. *Id.* ¶¶ 2, 5.

For the period June 23, 2021, to the present date, Defendants have consistently failed to comply with the Court's Orders regarding out-of-cell time. Based on the admissions of Defendants in weekly Deputy Warden Reports, and statements in Declarations filed by incarcerated persons, there have been patterns of noncompliance at each of the PDP facilities, due in large part to the failure of Defendants to ensure adequate staffing of correctional officers necessary for the out-of-cell access to showers, medical care and treatment, in-person disciplinary hearings, phones, visits, programs, and recreation. For some persons, there have been consecutive days without *any* out-of-cell time and for others there has been far less out-of-cell time than mandated by the Court. (*See* Plaintiffs' Motion for Contempt and Sanctions: Exhibit A (summary of Deputy Warden Reports), ECF No. 113-1 & Exhibit B (Plaintiff Declarations), ECF No. 113-2).

Defendants have admitted the fact of noncompliance and have also stated that with the current staffing levels (which are even lower than they were in the fall of 2021, and as of early January 2022, over 580 below the current City budget authorized levels[1]), the PDP will not be in compliance with the mandated increases in out-of-cell time scheduled for December 22, 2021 and January 22, 2022. Plaintiffs refrained from filing a contempt motion on out-of-cell time and related violations of this Court's Orders to enable Defendants to increase staffing and to take other measures necessary for compliance, but when it became clear that without Court-imposed

[1] Samantha Melamed, *Panic attacks and 20-hour workdays: Why Philly correctional officers are quitting in droves*, The Philadelphia Inquirer (Jan. 4, 2022), available at https://www.inquirer.com/news/philadelphia-jail-staffing-crisis-prisons-cfcf-picc-20211230.html (last visited Jan. 4, 2022).

sanctions, there would be continued violations of this Court's Orders, a Petition for Contempt was filed and is pending before the Court.

Named Plaintiffs Thomas Remick, Nadiyah Walker, Jay Diaz, Michael Alejandro, Michael Dantzler, Robert Hinton, Joseph Weiss, Joseph Skinner, Saddam Abdullah, and James Bethea, were, at the time of the filing of the original Complaint and the related Motion for Class Certification, held in the PDP subject to the conditions alleged in the Complaint. The First Amended Complaint updated all relevant allegations of unconstitutional conditions of confinement and seeks declaratory and injunctive relief on behalf of those persons who currently are, or will in the future, be subject to such unconstitutional conditions of confinement. The Second Amended Complaint, filed on January 7, 2022, added Clay Pizarro, Michael Flynn, Nasir Lewis, Dyquill Pledger, and Troy Harley as named Plaintiffs. Plaintiffs Clay Pizarro, Michael Flynn, Nasir Lewis, Dyquill Pledger, and Troy Harley, in addition to Michael Alejandro and Nadiyah Walker, are, as of the time of the filing of the Second Amended Complaint and the instant Amended Motion for Class Certification, held in the PDP subject to the conditions alleged in the Second Amended Complaint. The only difference between the First Amended Complaint and the Second Amended Complaint are inclusion of additional named Plaintiffs and updated allegations of unconstitutional conditions of confinement.

Defendant City of Philadelphia is a political subdivision of the Commonwealth of Pennsylvania and operates and funds the Philadelphia Department of Prisons. Defendant Blanche Carney is the Commissioner of the PDP. Defendants have actual knowledge of the challenged conditions of confinement. At all relevant times, Defendants have acted under color of state law.

III. ARGUMENT

A. The Standard for Class Certification

Class certification is appropriate for Plaintiffs' claims for declaratory and injunctive relief. "To obtain class action certification, plaintiffs must establish that all four requisites of Rule 23(a) and at least one part of Rule 23(b) are met." *Baby Neal v. Casey*, 43 F.3d 48, 55 (3d Cir. 1994); *Bowers v. City of Philadelphia*, 2007 WL 219651 (E.D. Pa. January 25, 2007). *See also Shelton v. Bledsoe*, 775 F.3d 554, 562 (3d Cir. 2015). Class certification is appropriate under Rule 23(a) where:

> (1) the class is so numerous that joinder of all members is impracticable,
>
> (2) there are questions of law or fact common to the class,
>
> (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and
>
> (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). Under Rule 23(b)(2), members of a putative class must further show that "the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole." Fed. R. Civ. P. 23(b)(2). Here, because Plaintiffs satisfy the criteria of Rule 23(a) and 23(b)(2), class certification is warranted.

B. The Plaintiff Class Meets All of the Requirements of Rule 23(a).

1. The Class Is So Numerous That Joinder Is Impracticable.

Rule 23(a)(1) requires that the class be so numerous that joinder of all class members would be impracticable. "Impracticality does not mean impossibility, but rather that the difficulty or inconvenience of joining all members of the class calls for class certification." *Lerch v. Citizens First Bancorp, Inc.*, 144 F.R.D. 247, 250 (D.N.J. 1992). "The numerosity

prerequisite is satisfied as long as the class representatives can show impracticability of joinder, even if the exact size of the class is unknown." *Santiago v. City of Philadelphia*, 72 F.R.D. 619, 624 (E.D. Pa. 1980). "No minimum number of plaintiffs is required to maintain a suit as a class action, but generally if the named plaintiff demonstrates that the potential number of plaintiffs exceeds 40, the first prong of Rule 23(a) has been met." *Stewart v. Abraham*, 275 F.3d 220, 226–27 (3d Cir. 2001); *see also Williams v. City of Philadelphia*, 270 F.R.D. 208, 214–15 (E.D. Pa. 2010) ("[C]ourts in this circuit have generally found that a class of 40 or more plaintiffs satisfies the numerosity requirement.").

The numerosity prerequisite is easily satisfied. As of the filing of the Second Amended Complaint the PDP population exceeded 4,500 persons, all of whom have been and are now subjected to the unconstitutional conditions set forth in the Second Amended Complaint. In conditions of confinement cases, federal courts routinely have found adequate showings of the numerosity requirement of Rule 23(a). *See, e.g., Bowers v. City of Philadelphia, supra; Mawson v. Wideman,* 84 F.R.D. 116, 118 (M.D. Pa. 1979) ("since [147] is considerably numerous and since class seeks to include future inmates, we find that joinder is impractical, and a class action would be more expedient"). Moreover, the transient nature of this class makes it especially appropriate for class certification. *See, e.g., Pabon v. McIntosh*, 546 F. Supp. 1328, 1333 (E.D. Pa. 1982) (joinder can be impractical without regard to the number of persons already injured where class is transient); *Santiago*, 72 F.R.D. at 624. Since the class would include present as well as future detainees, their joinder to this litigation is impractical. The numerosity requirement of Rule 23(a)(1) is satisfied.

2. Members of the Putative Class Have Questions of Law and Fact in Common.

With respect to the commonality requirement, "Rule 23 does not require that the representative plaintiff have endured precisely the same injuries that have been sustained by the class members, only that the harm complained of be *common* to the class." *Hassine v. Jeffes*, 846 F.2d 169, 177 (3d Cir. 1988) (emphasis in original). "[C]lass members can assert such a single common complaint even if they have not all suffered actual injury; demonstrating that all class members are *subject* to the same harm will suffice." *Baby Neal*, 43 F.3d at 57 (emphasis in original). "The commonality requirement will be satisfied if the named plaintiffs share at least one question of fact or law with the grievances of the prospective class." *Id.* at 56. Indeed, "because the requirement may be satisfied by a single common issue, it is easily met." *Id.*; *see also Logory v. County of Susquehanna*, 277 F.R.D. 135, 141 (M.D. Pa. 2011) (commonality is to be determined by the "potential for a classwide resolution").

The declaratory and injunctive relief sought by Plaintiffs implicates questions of law and fact common to the proposed class, which predominate over all other questions affecting individual class members. All class members are currently, or hereafter will be, subject to the unconstitutional conditions alleged in the Second Amended Complaint. Questions of fact common to the class include, but are not limited to, the following:

(i) Whether the practices and policies implemented by Defendants and Defendants' actions and inactions have caused the unconstitutional conditions of confinement described in the Second Amended Complaint; and

(ii) Whether the Defendants implemented, applied, or acquiesced to the unconstitutional and dangerous conditions of confinement described in the Second Amended Complaint.

Questions of law common to all putative class members include, but are not limited to:

(i) Whether the practices, policies and resulting conditions alleged in the Second Amended Complaint violate the Eighth and Fourteenth Amendments to the United States Constitution, in that they deprive the named Plaintiffs and class members their rights to be free from deprivations of liberty or punishment without due process of law, and to be free from cruel and unusual punishment.

As the Third Circuit has stated, "the complainants' assertion that these conditions existed, and that they were subject to them—even if they had not at the time of assertion themselves been injured by those conditions—[is] sufficient to require adjudication of the claims as to the class." *Hassine*, 846 F.2d at 178. At a minimum, a question of law common to all class members – i.e., whether Defendants' practices and procedures have resulted in unconstitutional conditions of confinement – is sufficient to support the commonality requirement. *See Bowers v. City of Philadelphia, supra.*

3. The Claims of the Named Plaintiffs Are Typical of Those of the Class.

The named Plaintiffs' claims are typical of the class they seek to represent. "Typicality asks whether the named plaintiffs' claims are typical, in common-sense terms, of the class, thus suggesting that the incentives of the plaintiffs are aligned with those of the class." *Baby Neal*, 43 F.3d at 55. "Factual differences will not render a claim atypical if the claim arises from the same event or practice or course of conduct that gives rise to the claims of the [absent] class members, and if it is based on the same legal theory." *Stewart*, 275 F.3d at 227–28 (quoting *Hoxworth v. Blinder, Robinson & Co., Inc.*, 980 F.2d 912, 923 (3d Cir. 1992)). "Indeed, even relatively pronounced factual differences will generally not preclude a finding of typicality where there is strong similarity of legal theories." *Baby Neal*, 43 F.3d at 58. "Where an action challenges a policy or practice, the named plaintiffs suffering one specific injury from the practice can represent a class suffering other injuries, so long as all the injuries are shown to result from the practice." *Id*.

The injuries sustained by the named Plaintiffs and class members arise from the same practices and policies which have caused the complained-of conditions to exist and continue. Central to Plaintiffs' claims is the lack of sufficient staffing and other management failures that have led to dangerous, unconstitutional conditions. As in *Baby Neal* and *Bowers*, the named Plaintiffs and class members do not necessarily "suffer from precisely the same deficiency, but they are all alleged victims of the systemic failures," and "claims framed as a violative practice can support a class action embracing a variety of injuries so long as those injuries can all be linked to the practice." *Baby Neal*, 43 F.3d at 63.

Plaintiffs' requests for declaratory and injunctive relief would benefit all class members, and there is no danger that the named Plaintiffs would seek or be afforded relief prejudicial to unnamed class members. For these reasons, the typicality requirement of Rule 23(a)(3) is satisfied.

4. The Named Plaintiffs Will Protect the Interests of the Class.

The final requirement of Rule 23(a) requires that the named class representatives will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a)(4). "Adequacy of representation assures that the named plaintiffs' claims are not antagonistic to the class and that the attorneys for the class representatives are experienced and qualified to prosecute the claims on behalf of the entire class." *Baby Neal*, 43 F.3d at 55. To establish adequacy of representation, Plaintiffs must show that (i) counsel for the proposed class is "qualified, experienced, and generally able to conduct the proposed litigation," and (ii) the named Plaintiffs have no interests "antagonistic to those of the class." *New Directions Treatment Servs. v. City of Reading*, 490 F.3d 293, 313 (3d Cir. 2007) (citations omitted).

The named Plaintiffs and members of the putative class are represented by counsel with extensive experience litigating actions on behalf of prisoners' civil rights, including a combined

fifty years of litigating class action lawsuits on behalf of people incarcerated in Philadelphia's jails. Plaintiffs' lawyers are qualified to provide the highest level of experience, knowledge, competence, and skill required to prosecute Plaintiffs' claims, and have demonstrated their willingness, in analogous litigation spanning decades, to vigorously pursue the relief sought by Plaintiffs.

The named Plaintiffs do not have any interests antagonistic to those of any other members of the putative class. Antagonism between named Plaintiffs and the other class members may exist when a unique defense is asserted against the named Plaintiff or against the other class members. *Lerch v. Citizen's First Bancorp, Inc*., 144 F.R.D. 247, 251 (D.N.J. 1992) (citing *Zenith Laboratories, Inc. v. Carter-Wallace, Inc*., 530 F.2d 508, 512 (3d Cir. 1976)). No such circumstances are present here as the interests of the named plaintiffs coincide with those of the class. Plaintiffs seek a declaration that the PDP practices and conditions alleged in the Second Amended Complaint are unconstitutional, as well as a permanent injunction requiring changes to these practices and conditions. The granting of the relief sought by Plaintiffs would benefit class members and would not impair any future class member claims, including any for money damages.

C. The Proposed Class Meets the Requirements of Rule 23(b)(2).

"In addition to satisfying the requirements of Rule 23(a), a putative class must also comply with one of the parts of subsection (b)." *Baby Neal*, 43 F.3d at 55-56; *Shelton*, 775 F.3d 554 at 559. Plaintiffs seek class certification pursuant to Rule 23(b)(2), which provides that a class action is appropriate when "the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole." Fed. R. Civ. P. 23(b)(2).

This requirement has been interpreted by the Third Circuit to mean that "the interests of class members are so like those of the individual representatives that injustice will not result from their being bound by such judgment in the subsequent application of principles of *res judicata*." *Hassine*, 846 F.2d at 179. As the Supreme Court has explained, the key to the (b)(2) class is "the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011) (citation omitted).

Rule 23(b)(2) "has been liberally applied in the area of civil rights, including suits challenging conditions and practices at various detention facilities." *Santiago*, 72 F.R.D. at 625–26 (collecting cases); *see also Coley v. Clinton*, 635 F.2d 1364, 1378 (8th Cir. 1980) (Rule 23(b)(2) is an especially appropriate vehicle for actions seeking prison reform)*; Bowers v. City of Philadelphia, supra*. "In fact, the [Rule 23(b)(2)] provision was 'designed specifically for civil rights cases seeking declaratory or injunctive relief for a numerous and often unascertainable or amorphous class of persons.'" *Baby Neal*, 43 F.3d at 58–59 (quoting 1 H. Newberg & A. Conte, *Newberg on Class Actions*, § 4.11, at 4-39 (1992)). "[W]hen a suit seeks to define the relationship between the defendant(s) and the world at large, as in this case, (b)(2) certification is appropriate." *Hassine*, 846 F.2d at 179 (quoting *Weiss v. York Hospital*, 745 F.2d 786, 811 (3d Cir. 1984)). Where the plaintiffs seek declaratory and injunctive relief, the "requirement is almost automatically satisfied." *Baby Neal*, 43 F.3d at 58-59.

IV. CONCLUSION

For the foregoing reasons, the Court should grant plaintiffs' Motion and certify the class proposed by Plaintiffs.

Respectfully submitted,

/s/ Su Ming Yeh
Su Ming Yeh (PA 95111)
/s/ Matthew A. Feldman
Matthew A. Feldman (PA 326273)
/s/ Grace Harris
Grace Harris (PA 328968)
/s/ Sarah Bleiberg
Sarah Bleiberg (PA 327951)
PENNSYLVANIA INSTITUTIONAL LAW PROJECT
718 Arch St., Suite 304S
Philadelphia, PA 19106
(215)-925-2966
smyeh@pailp.org
mfeldman@pailp.org
gharris@pailp.org
sbleiberg@pailp.org

/s/ David Rudovsky
David Rudovsky (PA 15168)
/s/ Jonathan H. Feinberg
Jonathan H. Feinberg (PA 88227)
/s/ Susan M. Lin
Susan Lin (PA 94184)
KAIRYS, RUDOVSKY, MESSING, FEINBERG, & LIN, LLP
718 Arch Street, Suite 501S
Philadelphia, PA 19106
(215) 925-4400
drudovsky@krlawphila.com
jfeinberg@krlawphila.com
slin@krlawphila.com

/s Bret Grote
Bret Grote (PA 317273)
/s Nia Holston
Nia Holston (PA 327384)
/s Rupalee Rashatwar
Rupalee Rashatwar (FL 1011088)*
ABOLITIONIST LAW CENTER
PO Box 31857
Philadelphia, PA 19104
(412) 654-9070
bretgrote@abolitionistlawcenter.org
nia@alcenter.org
rupalee@alcenter.org

/s/ Will W. Sachse
Will W. Sachse (PA 84097)
/s/ Benjamin R. Barnett
Benjamin R. Barnett (PA 90752)
/s/ Mary H. Kim
Mary H. Kim*
/s/ Nicolas A. Novy
Nicolas A. Novy (PA 319499)
DECHERT LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
(215) 994-2496
Will.Sachse@dechert.com
Ben.Barnett@dechert.com
Mary.Kim@dechert.com
Nicolas.Novy@dechert.com

* indicates counsel who will seek admission or *pro hac vice* admission

Attorneys for Petitioners/Plaintiffs

DATE: January 7, 2022

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2022, I electronically filed the foregoing motion and memorandum of law with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all attorneys of record.

Dated: January 7, 2022

/s/ Nia O. Holston