

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers asrequired by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, isrequired for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THEFORM.)

## I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

## DEFENDANTS

STATE OF ALABAMA AND ALABAMA DEPARTMENT OF CORRECTIONS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

2015 MAY 28

County of Residence of First Listed (EXCEPT IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney? (Firm Name, Address, and Telephone)

See attached list.

DEBRA P. HACKETT, CLU  
U.S. DISTRICT COURT  
MIDDLE DISTRICT

Anne A. Gill, Alabama Department of Corrections, 301 South Ripley Street, P. O. Box 501501, Montgomery, AL 36130-1501 - (334) 353-3884

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for and One Box for Defendant)

- Citizen of This State  1  DEF 1 Incorporated or Principal Place of Business In This State  PTF 4  DEF 4
- Citizen of Another State  2  2 Incorporated and Principal of Business In Another State  5  5
- Citizen or Subject of a Foreign Country  3  3 Foreign Nation  6  6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISON PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Civil Rights of Institutionalized Persons Act, 42 U.S.C. Section 1997

## VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint. JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKETNUM

DATE 5-28-15 SIGNATURE OF ATTORNEY OF RECORD Robert Anderson

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF ALABAMA AND  
ALABAMA DEPARTMENT OF  
CORRECTIONS,

DEFENDANTS.

RECEIVED

2019 MAY 28 A 11:09

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALABAMA  
Civil No. \_\_\_\_\_

**COMPLAINT**

PLAINTIFF, THE UNITED STATES OF AMERICA, by its undersigned attorneys,  
hereby alleges upon information and belief:

1. The United States files this Complaint pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to enjoin the named Defendants from depriving persons incarcerated at the Julia Tutwiler Prison for Women in Wetumpka, Alabama, of rights, privileges, or immunities secured and protected by the Constitution of the United States.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.
3. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 1997a(a).
4. The Attorney General has certified that all pre-filing requirements specified in 42 U.S.C. § 1997b have been met. The Certificate of the Attorney General is appended to this Complaint as Attachment A and is incorporated herein.

5. Venue in the United States District Court for the Middle District of Alabama is proper pursuant to 28 U.S.C. § 1391.

#### **PARTIES**

6. Plaintiff is the UNITED STATES OF AMERICA.
7. Defendants STATE OF ALABAMA and ALABAMA DEPARTMENT OF CORRECTIONS operate Tutwiler, and are responsible for the safety, care, custody, and control of women incarcerated there, as well as for the actions of the Tutwiler and Alabama Department of Corrections staff and for the actions of any entity or individual contracting and providing services at Tutwiler.
8. At all relevant times, Defendants have acted or failed to act under color of state law.

#### **FACTS**

9. Tutwiler is an institution within the meaning of 42 U.S.C. § 1997(1).
10. Tutwiler is a maximum-security prison for women in Wetumpka, Alabama with a capacity of 975.
11. In 2013, the Department of Justice's Civil Rights Division, Special Litigation Section investigated allegations of staff sexual abuse and sexual harassment of Tutwiler prisoners, and determined that Defendants, through their acts and omissions, engage in a pattern or practice of deliberately disregarding known or serious risks of harm from sexual abuse and sexual harassment of Tutwiler prisoners.
12. The United States' investigation included an on-site inspection with an expert consultant in custodial sexual abuse and sexual harassment, during which Department of Justice representatives toured the prison, interviewed staff and prisoners, and reviewed a wide array of documents, including policies, procedures, reports and training records.

13. The United States' findings are outlined in its January 17, 2014 Findings Letter regarding constitutional violations at Tutwiler, including those described in paragraphs 14 through 25 below.
14. Women prisoners at Tutwiler suffer serious harm from sexual abuse and sexual harassment by staff, including rape, fondling, voyeurism, and sexually explicit verbal abuse.
15. Women prisoners at Tutwiler are subjected to the high risk and threat of sexual abuse by staff.
16. Defendants have allowed Tutwiler staff members to encourage individual and group sexual activities by and among prisoners.
17. Defendants have allowed a sexualized environment to exist at Tutwiler, such that sexual abuse and sexual harassment are constant, and prisoners must sometimes submit to unlawful sexual advances from staff in order to obtain necessities or to avoid punishment.
18. Defendants do not have a grievance system, or other reliable reporting system, and thereby effectively deny women prisoners the ability to report sexual abuse and sexual harassment.
19. Defendants retaliate against women who attempt to report sexual abuse and sexual harassment. Women prisoners who attempt to report such abuse are routinely placed in segregation and face threats of physical assault by staff.
20. Defendants fail to adequately investigate allegations of sexual abuse and harassment.
21. Defendants fail to appropriately discipline officers found to have engaged in sexual abuse. For example, several officers have been permitted to resign in lieu of termination after having allegedly engaged in sexual abuse. Other staff alleged to have engaged in sexual abuse or sexual harassment have been reassigned to other ADOC facilities. Similarly, high-level Tutwiler officials who allowed the climate of sexual abuse and sexual harassment to

flourish received transfers to equally high or higher level positions at other ADOC facilities.

22. Defendants have failed to institute gender-responsive policies and procedures to address sexual abuse and sexual harassment and to remedy the sexualized atmosphere at Tutwiler.
23. Defendants have failed to collect and analyze data to identify potential misconduct before it occurs, thus subjecting prisoners to sexual harassment and sexual abuse that could have been prevented.
24. Defendants have maintained dangerously low staffing levels, including a dearth of female officers, thus placing prisoners at serious risk of harm from other prisoners and staff.
25. Defendants' classification system does not identify or protect potential victims from abuse, thereby dispersing vulnerable populations amongst the various units and subjecting them to risk of harm. In addition, Tutwiler has no pre-classification screening, so that prisoners spend weeks waiting for a housing assignment without any assessment of risk.
26. The factual allegations set forth in paragraphs 13 through 25 have been obvious and known to Defendants for a substantial period of time, yet Defendants have deliberately failed to adequately address the conditions described.
27. In 1994, the Department of Justice's Civil Rights Division, Special Litigation Section investigated Tutwiler and consequently issued a Findings Letter on March 27, 1995, informing Defendants of, *inter alia*, inappropriate sexual contact between staff and prisoners.
28. In 2007, the Department of Justice's Office of Justice Programs, Bureau of Justice Statistics published a report in which it identified Tutwiler as the women's prison with the highest rate of sexual assault allegations in the country.

29. In 2012, the Equal Justice Initiative issued a report detailing staff sexual violence against women prisoners at Tutwiler, indicating that little had changed since the 2007 findings by the Bureau of Justice Statistics.
30. On November 1, 2012, the NIC issued a letter to Defendants identifying deficiencies at Tutwiler that contributed to the sexualized environment and harm to prisoners.

### **VIOLATIONS ALLEGED**

31. The allegations of Paragraphs 1 through 30 are hereby re-alleged and incorporated by reference.
32. Through the acts and omissions alleged in paragraphs 13 through 30, Defendants have subjected prisoners at Tutwiler to a pattern and practice of conditions of confinement that deprive them of rights, privileges, and immunities secured and protected under the Constitution of the United States, causing such prisoners to suffer grievous harm.  
U.S. Const. Amend. VIII.
33. Through the acts and omissions alleged in paragraphs 13 through 30, Defendants have exhibited deliberate indifference to the health and safety of Tutwiler prisoners, in violation of the rights, privileges, or immunities of those prisoners as secured or protected by the Constitution of the United States. U.S. Const. Amend. VIII.
34. Unless restrained by this Court, Defendants will continue to engage in the acts and omissions, set forth in paragraphs 13 through 30, that deprive persons confined at Tutwiler of privileges or immunities secured or protected by the Constitution of the United States.

**PRAYER FOR RELIEF**

35. The Attorney General is authorized under 42 U.S.C. § 1997a to seek appropriate equitable relief.

36. WHEREFORE, the United States prays that this Court enter an order:


a. declaring that the acts, omissions, and practices of Defendants set forth in paragraphs 13 through 30 above constitute a pattern or practice of conduct that deprives prisoners confined at Tutwiler of rights, privileges, or immunities secured or protected by the Constitution of the United States and that those acts, omissions, and practices violate the Constitution of the United States;

b. permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, omissions, and practices set forth in paragraphs 13 through 30 above and requiring Defendants to take such actions as will ensure lawful conditions of confinement are afforded to prisoners at Tutwiler; and

c. granting such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

FOR THE UNITED STATES:

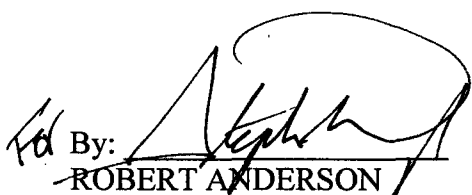
  
LORETTA E. LYNCH  
Attorney General  
United States

GEORGE L. BECK JR.,  
UNITED STATES ATTORNEY

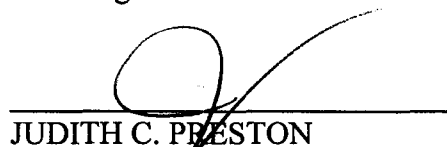
VANITA GUPTA  
Principal Deputy Assistant Attorney General  
Civil Rights Division



MARK KAPPELHOFF  
Deputy Assistant Attorney General  
Civil Rights Division



By: ~~ROBERT ANDERSON~~  
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**ATTACHMENT A**

**(Certificate of the Attorney General, Loretta E. Lynch)**


CERTIFICATE OF THE ATTORNEY GENERAL

I, Loretta E. Lynch, Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. Alabama, I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution.

In addition, I certify that I have the “reasonable cause to believe,” set forth in 42 U.S.C. § 1997a, to initiate this action, and that all prerequisites to the initiation of this suit under 42 U.S.C. §§ 1997a and 1997b have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 21<sup>st</sup> day of May, 2015, at Washington, D.C.

  
LORETTA E. LYNCH  
Attorney General of the United States