



PC-CT-007-001

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

*Filed 2/24/93
U.S. District Court
District of Connecticut*

Edward Roe, Evan Moe, David Coe,
and John Doe, on behalf of
themselves and all others
similarly situated,

Plaintiffs,

v.

CIVIL NO.

LARRY MEACHUM, Commissioner,
Connecticut Department of
Correction;
TERRE MARSHALL, Director, Health
Services, Connecticut Department
of Correction;
JAMES SINGER, Director, Forensic
Health Services, Connecticut
Department of Correction;
DANIEL BENWELL, Warden, Bridgeport
Community Correctional Center; and
LOWELL P. WEICKER, JR., Governor,
State of Connecticut, in their
official capacities,

Defendants

*3-93CV-375
TFG/B*

FEBRUARY 24, 1993

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. This civil rights class action challenges policies and practices of the defendant officials of the Connecticut Department of Correction ("DOC") pertaining to the care and custody of plaintiff inmates who are or will be incarcerated at the Bridgeport Community Correctional Center ("BCC"), who require, or will require, mental health services. Plaintiffs challenge these policies and practices as violative of their rights guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983, and §504 of the Rehabilitation Act of 1973 (29 U.S.C. §794 et seq., as amended by the Civil Rights Restoration Act of 1987), and seek declaratory and injunctive relief to remedy defendants' unlawful actions, inactions, policies, practices and procedures described herein.

2. Plaintiffs allege that defendants are deliberately indifferent to their serious medical needs, that plaintiffs have suffered and continue to suffer from a lack of adequate mental health care due to defendants' failure to ensure that inmates in need of mental health care at an inpatient mental health facility are transferred to an appropriate facility in a timely fashion; defendants' failure to provide adequate mental health care facilities and mental health care staff (including Spanish-speaking staff) at BCC; defendants' inadequate staff training and instruction concerning the mental health needs of inmates; defendants' inadequate suicide prevention, seclusion and restraint policies and practices; defendants' failure to

evaluate and diagnose the mental health needs of inmates adequately and defendants' corresponding failure to create and maintain adequate treatment plans for such inmates; defendants' improper administration and monitoring of plaintiffs' psychotropic medications; defendants' inadequate record keeping and documentation of plaintiffs' mental health care needs and treatments; and defendants' inadequate discharge policies and procedures, all of which have or will cause plaintiffs and the class they represent unnecessary physical and emotional suffering and jeopardize the lives of plaintiffs and class members.

II. JURISDICTION

3. This action is authorized by 42 U.S.C. §1983, and jurisdiction over this action is conferred by 28 U.S.C. §1331 and §1343 (3)(4).

4. A declaratory judgment is authorized pursuant to 28 U.S.C. §2201 and §2202 and Rule 57 of the Federal Rules of Civil Procedures. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure. An award of costs and attorneys' fees is authorized by 42 U.S.C. §1988.

III. PARTIES

Plaintiffs

5. Plaintiff Edward Roe is, and at all times pertinent herein was, a citizen of the United States. He is a sentenced inmate committed to the care and custody of defendants and is

presently incarcerated at the BCC. Plaintiff Roe suffers from mental illnesses, has previously been institutionalized at Fairfield Hills Mental Hospital for treatment of his condition, and currently requires mental health services.

6. Plaintiff Evan Moe is, and at all times pertinent herein was, a citizen of the United States. He is a pretrial inmate committed to the care and custody of defendants and is incarcerated at BCC. Plaintiff Moe suffers from mental illnesses, epilepsy and is mentally retarded. He requires, and has been denied, mental health treatment and protection from other inmates.

7. Plaintiff David Coe is, and at all times pertinent herein was, a citizen of the United States. He is a sentenced inmate committed to the care and custody of defendants and is incarcerated at BCC. Plaintiff Coe is of Puerto Rican descent and is a native Spanish-speaker. Plaintiff Coe reads, writes and speaks very little English. Plaintiff Coe has made numerous suicide attempts as a result of his mental illnesses and has previously been diagnosed as schizophrenic. He has been denied mental health treatment for these conditions.

8. Plaintiff John Doe is, and at all times pertinent herein was, a citizen of the United States. He is a pretrial inmate committed to the care and custody of defendants and is incarcerated at BCC. Plaintiff Doe suffers from mental illnesses, requires and has been denied mental health treatment

for conditions for which Plaintiff Doe has previously been institutionalized at Fairfield Hills Mental Hospital.

Defendants

9. Defendant Larry Meachum is, and at all times pertinent herein was, Commissioner of the Connecticut Department of Correction. Pursuant to Conn. Gen. Stat. §18-81, he is responsible for the overall supervision and direction of all DOC institutions (including BCC, where plaintiffs are confined); for the promulgation and implementation of all administrative directives, policies, practices and procedures of the Department of Correction; and for protecting the safety and welfare of all inmates committed to his care and custody. He is sued in his official capacity.

10. Defendant Terre Marshall is, and at all times pertinent herein was, Director of Health Services within DOC and as such has overall responsibility for all clinical practices, field services, operational support and quality assurance for BCC mental health care. She is sued in her official capacity.

11. Defendant James Singer is, and at all times pertinent herein was, Director of Forensic Services within DOC Health Services Division and as such serves as director of all mental health services within DOC. He is sued in his official capacity.

12. Defendant Daniel Benwell is, and at all times pertinent herein was, Warden of Bridgeport Community

Correctional Center. He is responsible for the overall supervision and direction of all facilities and services at BCC where plaintiffs are incarcerated. He is sued in his official capacity.

13. Defendant Lowell P. Weicker, Jr. is, and at all times pertinent herein was, Governor of the State of Connecticut. Pursuant to Conn. Gen. Stat. §§3-1, 4-6, and 18-80, he is vested with the supreme executive power of the state, with appointment and oversight authority over the Commissioner of Correction and authority to take proper actions to protect Connecticut's citizens. He is sued in his official capacity.

IV. CLASS ACTION ALLEGATIONS

14. The named plaintiffs bring this action as a class action pursuant to Rule 23(b)(1) and (2) of the Federal Rules of Civil Procedure, on behalf of themselves and all others similarly situated.

15. The plaintiffs, Edward Roe, Evan Moe, David Coe and John Doe, are all inmates who are committed to defendants' care and custody; who suffer from mental illnesses and who are currently in need of mental health services and treatment or will require mental health services in the future; and who have been subjected to defendants' unlawful and unconstitutional actions and inactions in denying them adequate mental health care.

16. The class plaintiffs seek to represent is composed of all inmates who are, or will be subject to defendants' care and custody at Bridgeport Community Correctional Center and who require, or will require, mental health services resulting from their mental illnesses.

17. Plaintiffs further seek to represent a subclass composed of all inmates who are, or will be subject to defendants' care and custody at Bridgeport Community Correctional Center and who require, or will require, mental health services resulting from their mental illnesses, whose primary language is Spanish and who read, write and speak very little, if any, English.

18. The class and subclass are so numerous that joinder of all members is impracticable. Based on defendants' estimates, set forth at paras. 25-27 below, the size of the putative class is approximately 200-700 persons. The subclass is a subset of that number and the number of BCC inmates of Hispanic origin, approximately 26%, or 52-182 persons.

19. There are questions of law and fact common to the members of the plaintiff class and subclass in that:

a. defendants' challenged policies, procedures and practices have been imposed and operate system-wide within BCC; they affect all class and subclass members, and deny all class and subclass members their rights under the Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983, and §504 of the Rehabilitation Act of 1973;

b. all members of the plaintiff class and subclass seek injunctive and declaratory relief to prevent future violations of their constitutional and statutory rights.

20. The claims of the representative parties are typical of the claims of the class and subclass in that the constitutional and statutory deprivations caused by defendants and claimed by named plaintiffs are the same as for all other members of the class and subclass. The named plaintiffs, like all other class and subclass members, are inmates who are committed to defendants' care and custody at BCC; who suffer from mental illnesses and require, or who will require mental

health services; who have been or will be subjected to defendants' challenged policies, procedures, and practices; and who challenge these policies, procedures, and practices as violative of their federal constitutional and statutory rights.

21. The representative parties will fairly and adequately protect the interests of the class and subclass. The named plaintiffs have no interests antagonistic to those of the class and subclass. Further, the plaintiffs are represented by attorneys experienced in federal constitutional litigation and class actions.

22. The prosecution of separate actions by individual members of the class and subclass would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for defendants.

23. Defendants have consistently acted and refused to act on grounds generally applicable to the class and subclass as a whole, thereby making appropriate final injunctive and declaratory relief with respect to the class and subclass as a whole.

V. STATEMENT OF FACTS

A. The Population of BCC Requires Mental Health Services.

24. BCC is a high-security correctional facility within DOC designed to have a maximum capacity of 900 inmates, with a

present inmate population of approximately 1,000 pretrial and sentenced inmates.

25. Approximately 15-25% of inmates incarcerated at BCC are in immediate need of mental health services. DOC has estimated that at any given time within the facility there are approximately ten inmates with mental health crises posing a danger to themselves or others; fifty inmates in need of inpatient mental health care; and 140 inmates in need of outpatient mental health care.

26. In addition to the 15-25% of inmates in immediate need of mental health services described above, as many as 50% of all inmates at BCC have a history of mental illness and are likely to need mental health services during their incarceration at BCC.

27. According to DOC's most recent Annual Report, 26.14% of inmates committed to defendant Meachum's care and custody are of Hispanic origin. Thus, the putative subclass ranges in possible size from approximately 52 to 182 persons.

B. Named Plaintiffs.

28. Plaintiff Edward Roe suffers from major depression, among other mental illnesses. This condition puts him at risk of suicide, which is documented in defendants' files.

29. Despite defendants' knowledge of plaintiff Roe's risk of suicide, defendants' administration of his psychotropic medications has been erratic.

30. Plaintiff Roe continues to require mental health services, including mental health counselling for depression and monitoring of his mental condition to control for psychiatric crises, including suicidal crises, and monitoring of his psychotropic medications, services which defendants are not adequately providing. This may exacerbate plaintiff Roe's mental illnesses and puts plaintiff Roe at risk of future physical harm.

31. Plaintiff Evan Moe is a mentally-retarded epileptic who was under the custody of the Connecticut Department of Mental Retardation prior to his incarceration at BCC, and requires inpatient mental health services at BCC.

32. Despite his need for inpatient services, plaintiff Moe is housed in general population at BCC, where he frequently suffers from epileptic seizures. Plaintiff Moe has been injured on several occasions at BCC from falling down during a seizure or hallucination.

33. As a result of his mental retardation and epilepsy, plaintiff Moe is also vulnerable to hostility and aggression of other inmates in general population, and requires inpatient and/or other protective care within the institution.

34. Despite his well-documented vulnerabilities, defendants house plaintiff Moe in general population with no special care, protection or facilities. As a result, Evan Moe has frequently been beaten and physically abused by other inmates at BCC.

35. Plaintiff David Coe has a history of serious mental illnesses, including repeated self-mutilations. Despite this history, and defendants' treatment of plaintiff Coe with substantial doses of anti-psychotic medications, there is no record of David Coe's having ever received a comprehensive psychiatric evaluation at BCC, nor is there any apparent treatment plan for plaintiff Coe.

36. Instead, plaintiff Coe has most frequently been "treated" for his psychotic episodes and suicidal periods with four-point restraints, including metal hand and ankle cuffs, in isolation cells where he is locked-down for days at a time. Such treatment has exacerbated David Coe's mental illnesses and has increased his risk of physical harm. Recently, plaintiff Coe complained to BCC staff that he was having severe mental problems, including suicidal thoughts. He was placed in disciplinary segregation in four point restraints, which he broke in a psychotic episode. Plaintiff Coe was then disciplined for having destroyed state property (i.e., the medically inappropriate restraints), and sent back to disciplinary segregation with no mental health care.

37. Plaintiff John Doe has a history of mental illness and substance abuse. He was released from defendants' custody in September, 1992, to Fairfield Hills Mental Hospital for treatment following a finding that he was incompetent to face criminal charges. In November, 1992, John Doe was returned to

BCC because he had been determined to have had his legal competency restored, but continues to suffer from mental illnesses which require mental health treatment.

38. Despite this history, plaintiff Doe has been seen by BCC mental health staff only once since his return. Although he was scheduled for a psychiatric evaluation on November 10, 1992, upon information and belief no such evaluation has ever been performed, and BCC appears to have misplaced plaintiff Doe's prior mental health records.

39. Although plaintiffs Edward Roe, Evan Moe and David Coe are all receiving substantial dosages of psychotropic medications, upon information and belief, they did not have a base-line EKG and blood test done prior to being prescribed and administered such medications, and since they have been taking such medication they have not had appropriate blood-level checks, EKGs or checks for symptoms of tardive dyskinesia.

C. BCC Staffing is Inadequate to Meet the Mental Health Needs of Inmates.

40. The staff at BCC is inadequate to deal with the mental health needs of the inmate population. The entire trained mental health staff at BCC consists of only one or two a psychologist(s) who work at BCC Monday through Friday and one private psychiatrist with whom DOC contracts for approximately twenty-one hours of psychiatric services per week.

41. The on-call psychiatric services at BCC for psychiatric emergencies are insufficient to meet the emergency mental health

needs of inmates, jeopardizing plaintiffs' lives and physical and emotional well-being.

42. Inmates admitted to BCC who identify themselves as mentally ill and who request mental health services are subjected to medically inappropriate waiting periods of several weeks to several months due to the shortage of psychiatric staff and the existing staff's inability to triage mental patients appropriately.

43. The correctional and medical staff at BCC is not adequately trained to recognize, refer or treat the symptoms of mental illness, acute psychosis and suicidal inmates, or properly to refer inmates exhibiting these symptoms for necessary mental health treatment.

D. Spanish Language Inadequacy.

44. The staff at BCC is inadequate to address the mental health needs of the Spanish-speaking inmate population. Spanish-speaking inmates often are deprived of emergency and routine mental health care because the BCC staff cannot understand the inmates' communications or requests with respect to their mental health needs.

45. The mental health care staff at BCC is inadequate to provide inmates with culturally and linguistically appropriate mental health assessments and psychological evaluations.

E. Defendants Do Not Adequately Diagnose and Evaluate Inmates' Mental Illnesses and Mental Health Care Needs.

46. Defendants do not perform adequate mental health screening upon admission to BCC, which results in many inmates with serious mental health needs not receiving treatment promptly, if at all, thus jeopardizing plaintiffs' physical and mental health.

47. When inmates are seen by BCC mental health staff, they are not properly or adequately evaluated or conclusively diagnosed, which results in inadequate or non-existent mental health treatment plans.

48. The lack of adequate mental health treatment plans, and the necessary psychological evaluations and diagnoses underlying them, puts inmates at risk of receiving improper treatment and inappropriate medications, jeopardizing their physical and mental health.

F. Defendants' Transfer Policies and Practices Are Inadequate to Meet the Mental Health Needs of Inmates.

49. Defendants' current policies, practices, and procedures for treating or transferring inmates who are acutely psychotic, suicidal or in need of inpatient mental health care from BCC to appropriate mental health facilities are inadequate.

50. Inmates who need emergency mental health care, including acutely suicidal inmates in need of crisis intervention, are in danger of death or serious bodily harm

because defendants do not promptly treat or transfer them to appropriate mental health care facilities.

51. Although defendants are aware of the serious mental health needs of this population, instead of adequately treating or transferring such inmates to adequate facilities, defendants frequently treat inmates' emergency mental health care needs in the following ways:

a. keeping inmates locked in their cells in general population;

b. improperly considering such inmates discipline problems and placing them in administrative detention or segregation;

c. stripping such inmates naked and placing them in an empty cell or handcuffed to a metal bed; or

d. placing such inmates in the medical infirmary with the general population.

52. Inmates whom defendants know are in need of non-emergency inpatient mental health care are similarly not treated or transferred to an appropriate facility.

53. Instead, defendants often either:

a. ignore the inpatient mental health care needs of inmates, leaving them in their regular cells to fend for themselves among the general population;

b. house such inmates in the medical infirmary designed to treat the non-serious medical conditions of the general population; or

c. inappropriately consider such inmates discipline problems and place them in administrative detention or segregation.

G. Defendants Do Not Provide Adequate Treatment Space and Facilities to Meet the Mental Health Care Needs of Inmates at BCC.

54. There is no medically appropriate space within BCC for the treatment, observation and monitoring of acutely psychotic or suicidal inmates, who require one to one monitoring during psychiatric crisis periods. The only spaces available to inmates in such emergencies are isolation cells described in paras. 51, 61-65, or the BCC Medical Infirmary which is inappropriate for emergency psychiatric care. In addition, the medical infirmary is filled with medical patients.

55. There is no medically appropriate space within BCC for the treatment, observation and monitoring of inmates with mental illnesses requiring inpatient treatment. The only space available is a portion of the BCC Medical Infirmary which is inappropriate for such psychiatric care and usually filled with medical patients.

56. Defendants' failure to provide adequate mental health treatment space and facilities contributes to the problems

described at paragraphs 25 to 53, above, and frequently exacerbates the mental illnesses of inmates.

57. Defendants' practice of housing inmates with mental health needs with the general population at BCC jeopardizes the inmates' physical and psychological health.

H. Defendants Do Not Adequately Administer and Monitor Psychotropic Medication.

58. Medication for mentally ill inmates is not adequately prescribed, monitored, or administered.

59. Many inmates are currently taking substantial dosages of antipsychotic medications that require periodic blood-level monitoring, EKGs and checks for tardive dyskinesia. These tests are not being performed at medically appropriate intervals.

60. Inmates have suffered needless and dangerous withdrawal because they were not medicated at appropriate intervals and on schedule, and are at risk of developing serious medical problems as a result of defendants' failure to monitor their medications adequately.

I. Defendants Utilize Medically-Inappropriate Seclusion and Restraint Practices.

61. Mentally ill inmates who suffer from acute psychotic episodes or are considered suicide risks are frequently stripped of all their clothes and placed in administrative or punitive isolation cells known as "strip cells," often for twenty-four to seventy-two hours at a time.

62. In these strip cells inmates are frequently restrained with metal handcuffs and leg irons.

63. Although DOC has an Administrative Directive not to use hard restraints, some mentally-ill inmates have been placed in four-point restraints, prone on a steel slab, lying in urine.

64. On information and belief, while mentally-ill inmates are confined in such strip cells they are not appropriately monitored by trained mental health staff.

65. Defendants' use of strip cells as described above is medically inappropriate and frequently exacerbates inmates' mental illness and jeopardizes their physical health.

J. Defendants Do Not Have an Adequate Management Information System and Defendants Do Not Maintain Adequate Mental Health Records.

66. BCC lacks any adequate method of keeping track of inmates with mental health needs, any treatment plans for such inmates, or any means to access patient treatment and medical history data automatically for any inmate who has been treated for mental health problems at another DOC facility.

67. Defendants do not properly or adequately record mental health assessments of inmates, inmates' medication schedules and the monitoring thereof, nor do defendants properly record their emergency monitoring of inmates who are acutely psychotic and at risk of suicide. Defendants' failure to do so impedes an appropriate continuum of care and jeopardizes plaintiffs' physical and mental health.

K. Defendants' Discharge Policies Are Inadequate to Meet the Mental Health Needs of Inmates.

68. Defendants' current policies, practices and procedures for discharging inmates who are acutely psychotic, suicidal or in need of in-patient or out-patient mental health care from BCC are inadequate.

69. Mentally ill inmates discharged from BCC into the community are rarely administered any psychotropic medications upon discharge, and do not receive referrals to any community care providers. Such discharged inmates often experience a delay of four to six weeks before they are seen by a community mental health services provider. Defendants' failure to provide a continuum of care puts plaintiffs at risk of dangerous withdrawal from psychotropic medications, unnecessary recidivism and inpatient hospitalization.

L. Defendants Are Aware of Plaintiffs' Unmet Mental Health Care Needs.

70. The deficiencies in mental health care provided to inmates at BCC described at paragraphs 25 to 69 above are longstanding problems of which defendants are aware.

71. In October, 1990, defendants began to document the problems associated with diminished on-call psychiatric coverage, acknowledging that such reduction in services increases the likelihood of self-mutilations, physical trauma, suicides and unnecessary deaths.

72. In or around February, 1991, defendant Meachum requested that the Connecticut Department of Mental Health undertake a comprehensive evaluation of mental health services within the DOC, including services at BCC. The request was made in response to documented problems resulting from the existing services, including suicides.

73. Although the preliminary results of this study, including recommendations for improvement of existing services, were produced to defendant Meachum in or around July, 1992, defendants have taken no significant action to implement any improvements, nor have they acted in any other meaningful way in response to the study.

74. In or around November, 1991, defendant Meachum's staff undertook a review of the discharge practices of BCC for inmates with mental health needs. They concluded that there was a very significant gap in services provided to BCC inmates upon discharge which resulted in unnecessary recidivism and inpatient hospitalization and which placed substantial numbers of inmates (more than 100 per year) in a precarious situation upon discharge from BCC.

75. Despite the conclusions of the study described at para. 74, defendants have taken no meaningful steps to rectify the problem of inadequate practices, policies and procedures with regard to discharge of inmates with mental health needs.

76. Defendants know their failure to treat adequately or transfer inmates in need of emergency or inpatient mental health care to an adequate mental health care facility frequently exacerbates inmates' mental illnesses.

77. Defendants are further aware that their failure to provide adequate mental health screening, evaluation, treatment plans and outpatient mental health services, frequently exacerbates inmates' mental illnesses.

78. DOC staff, under the direction of defendant Meachum, prepared mental health facility plans in or around November, 1991. Although these plans were designed to eradicate the problems described in paras. 71 - 73 and 74-75, defendants did not implement those plans nor did they adopt any alternative plans to address the mental health needs of inmates.

79. Defendants are aware that their improper use of seclusion and restraint devices described at paras. 61 -65 exacerbates inmates' mental illnesses. However, defendants continue to improperly use such devices.

80. Defendants have been aware since 1991 that their failure to maintain adequate mental health records contributes to deficient mental health care and population management crises, yet the problem remains unresolved.

81. Defendants' actions and inactions as set forth in paras. 1-80 constitute deliberate indifference to the serious medical/mental health needs of the plaintiff class and subclass.

M. Federal Funding

82. DOC has received substantial amounts of federal funds in each of the last two years.

N. Harm to Plaintiffs

83. Defendants' inadequate care of mentally ill inmates described at paragraphs one through 81, above causes unnecessary physical and emotional suffering by mentally ill inmates.

84. Defendants' policies, procedures, practices, actions and inactions with respect to mental health services at BCC are causing plaintiffs to suffer irreparable harm for which they have no adequate remedy at law.

VI. CLAIMS FOR RELIEF

A. First Claim for Relief - Eighth and Fourteenth Amendments to the United States Constitution - Right to Adequate Mental Health Care.

85. Paragraphs one through 84 are incorporated herein by reference the same as though pleaded in full.

86. Defendants' actions and knowing inactions in:

a. failing or delaying adequate treatment or transfer of inmates with psychiatric emergencies and inmates in need of inpatient psychiatric care to appropriate psychiatric care facilities;

b. failing to provide adequate mental health treatment space to meet the mental health care and housing needs of inmates at Bridgeport Community Correctional Center;

c. failing to provide appropriate staff to meet: 1) the emergency mental health needs of inmates; 2) the outpatient mental health care needs of inmates; 3) the inpatient mental health care needs of inmates; and 5) the needs of inmates and correctional staff for instruction and supervision in the identification and response to mental health needs of inmates;

d. failing to provide appropriate staff to meet the mental health care needs of Spanish-speaking inmates;

e. failing to use appropriate seclusion and restraint policies and practices for mental health patients when medically indicated;

f. failing to implement adequate medical discharge policies and practices for inmates discharged from BCC who have mental health needs;

g. failing to diagnose and evaluate adequately inmates' mental illnesses and mental health care needs;

h. failing to administer and monitor properly inmates' psychotropic medications; and

i. failing to implement an adequate management information system and to maintain adequate mental health records for inmates with mental health needs;

violate the due process rights of plaintiffs and the class and subclass they seek to represent, to be maintained in a safe, secure and humane environment and constitute deliberate indifference to the serious mental health needs of plaintiffs, and the class and subclass they seek they represent, in violation of the Eighth and Fourteenth Amendments to the United States Constitution.

B. Second Claim for Relief - Section 504 of the Rehabilitation Act of 1973, as Amended - Right to be Free of Discrimination Handicap.

87. Paragraphs one through 86 are incorporated herein by reference the same as though pleaded in full.

88. Defendants' policies, procedures and practices that discriminate against inmates with mental health problems and in need of mental health services on the basis of handicap, violate the rights of plaintiffs, and the class they seek to represent, to be free of unlawful discrimination based on handicap by a program or activity receiving federal financial assistance, as is guaranteed to them by Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794 et seq.

VII. PRAYER FOR RELIEF

Wherefore, the plaintiffs respectfully request that this court:

1. Assume jurisdiction over this action;
2. Certify this action as a class action;
3. Grant preliminary and permanent injunctive relief enjoining the defendants, their agents and their successors in office from:
 - a. failing or delaying adequate treatment or transfer of inmates with psychiatric emergencies and inmates in need of inpatient psychiatric care to appropriate psychiatric care facilities;
 - b. failing to provide adequate mental health treatment space to meet the mental health care and housing needs of inmates at BBC;
 - c. failing to provide appropriate staff to meet: 1) the emergency mental health needs of inmates; 2)

the outpatient mental health care needs of inmates; 3) the inpatient mental health care needs of inmates; and 5) the needs of inmates and correctional staff for instruction and supervision in the identification and response to mental health needs of inmates;

d. failing to provide appropriate staff to meet the mental health care needs of Spanish-speaking inmates;

e. inappropriate use of seclusion and restraint policies and practices for mental health patients when medically indicated;

f. failing to implement adequate medical discharge policies and practices for inmates discharged from BCC who have mental health needs;

g. failing to diagnose and evaluate adequately inmates' mental illnesses and mental health care needs;

h. failing to administer and monitor properly inmates' psychotropic medications; and

i. failing to implement an adequate management information system and to maintain adequate mental health records for inmates with mental health needs;

4. Enter a declaratory judgment declaring that defendants' policies, procedures, and practices violate plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution; 42 U.S.C. §1983; and Section 504 of the Rehabilitation Act of 1973, as amended;

5. Award plaintiffs their costs and expenses of maintaining this action, including reasonable attorneys' fees, pursuant to 42 U.S.C. §1988; and

6. Grant such other relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED,
THE PLAINTIFFS

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