

## **REPORT OF DR. TERRY A. KUPERS, M.D., M.S.P.**

1. I am a board-certified psychiatrist, and have been retained as an expert witness by plaintiffs' counsel in this case. My qualifications and curriculum vitae have previously been provided to the Court. This Report supplements my July 7, 2002 Declaration.

2. I toured Death Row at Mississippi State Penitentiary, Parchman, on August 8, 2002, in the company of ACLU and MDOC attorneys, the Warden and Associate Warden of Unit 32, and Corrections staff. I also visited the Unit 32 clinic and other areas in Unit 32 and the Prison Hospital in Unit 42. I interviewed Corrections staff, Chief Medical Officer Dr. John Beary, Psych. Assistant Mildred Ware, and another Psych. Assistant (the Psychiatrist, Dr. Glenn, was not at the facility that day). I interviewed 21 Death Row prisoners in the visiting room, by phone through a glass partition. I interviewed an additional ten prisoners at their cells. I reviewed over twenty medical and mental health charts. The tour, interviews and chart review began at 8 A.M. and lasted until 10:30 P.M. Before and after the tour, I reviewed additional written letters and affidavits from prisoners, statistics regarding appeals and post-conviction legal outcomes, temperature data, and various Mississippi Department of Corrections policies pertaining to Death Row, including The Standard Operating Procedures Manual of The Department of Psychiatry, University of Mississippi Medical Center Div. of Correctional Medicine (eff. 10/1/00) and related policies.

3. It was abundantly obvious that MDOC had made efforts to improve appearances in the days immediately preceding our tour. A few days before our tour, all of the state prisoners who had been housed among Death Row prisoners had been relocated. In the three days preceding our tour, the psychiatry department had posted quite a few "90 day Comprehensive Mental Health reviews" in the inmates' medical charts. Shortly before our tour, some of the prisoners' televisions and fans had been returned to them. The outdoor areas surrounding C Building had been sprayed for insects within hours of our visit. Parts of Tier 1 had been freshly painted. Staff had given showers to psychotic prisoners and had cleaned their cells shortly before we arrived.

4. Nevertheless, my observations, interviews with staff and inmates, and document review during my fourteen-hour tour confirmed the accuracy of the descriptions provided in the prisoner declarations on which I relied in my July 7, 2002 Declaration. Parchman's Death Row rivals any prison I have seen for cruel, harsh and inhumane conditions of confinement, even compared with super-maximum facilities. These conditions are not warranted on penological grounds, and they cause the Death Row prisoners at Parchman intense and needless pain and suffering. These conditions are virtually certain to cause medical illness and destruction of mental stability and functioning. It is probable that as a result of these conditions, a significant proportion of the prisoners have developed or will develop psychiatric conditions that interfere with their ability to cope with life in prison and in the community, and that many have suffered or will suffer breakdowns that become chronic and chronically disabling.

5. It should be noted that in fact many of these prisoners will never be executed: a significant number of them will eventually have their sentences vacated by the courts and be released from Death Row; some may eventually be exonerated. Of 183 death sentences imposed in Mississippi since 1976, 5 people have been executed, four have had their convictions reversed, and five have been resentenced to life imprisonment. The Mississippi Supreme Court has reversed the death penalty in 41% of the 166 direct appeals it has ruled upon; relief was granted in federal habeas or following federal habeas court remand in 21 cases; and sixty-seven sentences (36.6%) are still under review. Thus, almost as many people have had their convictions reversed as have been executed, and relief in some form was granted in 108 cases (59%). But in any event, in our society, even a prisoner condemned to execution may not be incarcerated in cruelly inhumane conditions, or allowed to suffer severe pain and illness without basic treatment for his serious medical and psychiatric needs.

6. A high percentage of the prisoners I interviewed clearly suffer from severe mental illness. At least six suffer from obvious psychosis with current signs including auditory hallucinations and delusions. At least another six suffer from severe depression and other mood disorders. I also discovered several cases each of severe anxiety, panic disorder, post-traumatic stress disorder and other significant mental illnesses. In all likelihood there are many more prisoners suffering from serious mental illness beyond the ones I happened to interview.

7. The very serious mental health needs of these prisoners are not being addressed. The mental health care available to prisoners on Death Row is grossly inadequate. There are three Psych. Assistant positions, but only two are filled. There is a Psych. Evaluator; and a part-time Psychiatrist whose caseloads include Death Row prisoners as well as prisoners on other units. Besides brief visits with the psychiatrist, which are supposed to occur once every three months on average (in a few cases they occur more frequently but in many more cases they actually occur much less frequently), there is little in the way of mental health services. The Psych. Assistants told me that they make rounds and ask prisoners known to suffer from significant mental illness how they are doing, but most of these interviews are very brief. Further, many of these visits occur at the prisoner's cell door within earshot of other prisoners and Corrections Officers. Thus, there is no confidentiality, and prisoners are very unlikely to aver any emotional problems in such a setting.

8. The Psych. Assistants told me that, although their caseloads are very large and they are responsible for other populations besides Death Row, they still have approximately 20 cases between them on Death Row. They state that they conduct monthly interviews with these 20 prisoners in an office on the tier, which can last between 10 to 20 minutes each.

9. The prisoners tell another story. Most of the prisoners who suffer from mental illness, including those who are prescribed psychiatric medications, tell me that besides their occasional visits with the psychiatrist they have no other contact with mental health personnel. When I ask about their contact with the Psych. Assistants, some tell me that a Psych. Assistant occasionally accompanies Dr. Glenn on his rounds. Others who are taking prescribed psychiatric medications tell me they have never even seen a Psych. Assistant. Others told me that just before our August 8 tour, a Psych. Assistant came by their cell and talked to them at the door of their cell for a minute or two in order to complete a 90 day Comprehensive Mental Health Report, but they had never seen a Psych. Assistant on their tier before that. Quite a few prisoners report that they very rarely get to see the psychiatrist, and often the appointments they were given are canceled. Several report that they are supposed to see Dr. Glenn every three months so he can monitor their psychiatric medications, but they have not actually seen him for over six months. According to one prisoner who remembers being seen by a Psych. Assistant on rounds, "Let me put it this way, I was on my way to the

shower when he came by, and our interview did not slow my progress toward the shower."

10. My review of the medical charts of over 20 prisoners reveals that the prisoners<sup>1</sup> reports are essentially accurate. Mental health notes are very sporadic and incomplete. There are some 90 day Comprehensive Mental Health Reports in the charts, but they are not completed in their entirety, and often provide very little real information about the prisoners' psychiatric conditions and the prisoners' responses to treatment. Many psychiatric progress notes consist of the name and dosage of a medication being prescribed and the length of time until the next appointment, with no comment about the prisoner's condition, why the medication is being continued or changed, nor any other treatment that might be indicated.

There are occasional longer notes, sometimes typed and other times handwritten, which may provide a little more information, but certainly do not constitute adequate ongoing clinical chart entries. By looking at the dates of visits with the psychiatrist and the Psych. Assistants, it becomes clear that there are often significant delays between the time a prisoner requests mental health services and the time they are seen, and often there are very long periods between visits. One prisoner (S.M.) tells me he refuses to take the tranquilizers the psychiatrist prescribed in February because he has not been able to see the psychiatrist since February, in spite of requesting an appointment several times. A review of the charts bears out the prisoners' reports. There are frequent notes by non-physicians stating: "Due to the number of patients and time constraints, this patient is being rescheduled."

Many psychiatric medications require close monitoring and blood tests to guard against the development of toxic side effects, for example liver damage. The haphazard nature of appointments with mental health staff and the lack of adequate notes in the charts lead me to conclude that adequate monitoring of this kind is not occurring on a regular basis.

11. As Mr. Nathan points out in his report, security staff are assigned to transport and pass out prescribed medications. This practice is unacceptable in terms of the standard of medical care. The fact that so many prisoners complain about irregularities and gross error in the delivery of their medications reflects the inadequacy of procedures for distributing prescribed psychiatric and other medications on Death Row at Parchman. Several prisoners who are taking psychiatric medications told me that on more than a few occasions they were given the wrong medications, and others told me that their medications are frequently discontinued for days or longer for

reasons unknown to them.

12. Besides infrequent and extremely brief meetings with mental health staff, many of which occur at the cell door, and the prescription of psychiatric medications, there are no psychiatric services available to prisoners on Death Row. I spoke to Ms. Ware, another Psych. Assistant, and Dr. Bearry about the mental health treatment program. They confirmed there were no other services available except in the event someone needed admission to a psychiatric hospital. As I questioned them about who has been admitted to a psychiatric hospital for acute psychosis or serious suicide risk in recent years, it became apparent that prison health care providers do not utilize this option for prisoners on Death Row except on the rarest of occasions.

13. Ms. Ware and Dr. Bearry told me that the Observation Cells in the Prison Hospital in Unit 42 at Parchman have not been used to confine a Death Row prisoner for years. When I asked why, Dr. Bearry told me: "There's been no reported suicide ideation or attempt on Death Row for years." I found this statement to be incredible, given that a significant proportion of prisoners I interviewed spoke openly about their despair and frequent thoughts of suicide. For example, Willie Russell confided that in January 2002, he wrote a letter to the Unit Administrator saying he was planning to kill himself, and the staff searched his cell and discovered hoarded pills that he was planning to use for that purpose. In other words, prisoners with serious mental illness or suicidal ideation on Death Row are mainly left to suffer alone in their cells without the benefit of mental health services beyond the prescription of medications, and the monitoring of those medications is far from adequate.

14. While the mental health care is inadequate in general, the care provided to extremely disturbed individuals is shockingly deficient, and creates a threat to the well-being of all prisoners on Death Row. Just about every prisoner I interviewed discussed the presence on Death Row of severely psychotic prisoners who foul their cells, stop up their toilets, flood the tiers with excrement, and keep other prisoners awake all night with their incessant screams and shouts. Some of the severely disturbed prisoners at the time the prisoners' affidavits were written were "state prisoners" who are not sentenced to death but were confined on the tiers that house Death Row. These "state prisoners" were removed from the three tiers we toured just prior to our visit. There remain at least three Death Row prisoners (Ronnie

C., James B. and David B.) who are obviously acutely psychotic in spite of being prescribed psychiatric medications, and who foul their cells and the tiers and/or scream and make noise day and night. Several prisoners informed me there are others who are nearly as disturbed, loud and filthy as those three.

15. I interviewed David B. He is acutely psychotic and admits to screaming loudly and disturbing the other prisoners day and night, and he tells me he cannot control himself even when he takes anti-psychotic medications. I passed by the cell of James B., who is also clearly psychotic. Even though officers had forcibly showered him and cleaned his cell just prior to our tour, his cell already emanated a foul odor by the time I passed by on the evening of August 8.

16. Prisoners who are as severely disturbed and disruptive as James B., David B. and Ronnie C. require much more intensive psychiatric treatment than is available on Death Row at Parchman. The problem with their not being adequately cared for and treated is twofold. First, the seriously disturbed prisoners are left to deteriorate even further because of the severe idleness and isolation on Death Row and because of all the other conditions I outlined in my July 7 Declaration, and as a result their psychiatric disturbances become more severe, chronic and unresponsive to future treatment, and therefore their prognoses becomes much worse. Second, prisoners in neighboring cells suffer immense pain, discomfort and psychiatric breakdown because of the presence among them of prisoners who cannot control themselves and foul the cell-block, flood the tiers, throw excrement and keep the others up day and night with their loud noises and hollering.

17. One prisoner (H.G.), who has been diagnosed Paranoid Schizophrenic and is prescribed Haldol, a strong anti-psychotic medication, hears voices that order him "to do things" (command hallucinations). He tells me that he sleeps much of every day, he cannot afford a television so when he is awake he sits and stares or tries to read, but he cannot remember what he reads and cannot concentrate on the pages. His cell was next door to that of Ronnie C. for some time, and the noise, "the stink from Ronnie's cell," and the many bugs that fly from the filth in Ronnie's cell, made him extremely anxious and made the voices in his head louder. These are entirely unacceptable conditions of confinement and psychiatric treatment for a prisoner who suffers from this degree of serious mental illness. There are many more

prisoners on Death Row who suffer from serious mental illness and are receiving far from adequate mental health treatment.

18. Corrections staff tell me that their strategy for managing Death Row prisoners whom they consider to be high security risks is to constantly move them to a new cell, on average once every week. Of course, this means that other prisoners must be moved to accommodate the movement of the high-risk prisoners; thus, there is frequent and widespread cell movement.

Security Expert Vincent Nathan questions the necessity of this procedure in his Report. The consequence, whether intended or unintended, is that prisoners live with the omnipresent possibility that they will be placed in a filthy, foul-smelling cell that had been occupied by one of the very disturbed prisoners who smeared feces or fouled the cell, or a cell in which the window mechanism is broken or the electrical outlet has been destroyed. When the unlucky prisoner who is moved into a filthy cell requests cleaning supplies to make the cell habitable, the staff cannot or will not provide adequate supplies.

19. This technique for managing security risks constitutes a kind of physical and psychological punishment that can drive men stark raving mad, or to suicide. A July 29, 2002 letter from Paul Woodward describes the effect on him of a recent move of this kind: "They moved me into Cell #13, which had been Ronnie C's cell. Cell #13 has no electrical outlet or TV hook-up. I couldn't use any of my electrical appliances. My fan was sorely missed! The cell was full of mosquitoes, as the window was open and the screen has a huge gash in it. There was feces and dried urine all over the floor and walls, as well as the bars and the bed. I asked officers for a broom and mop for 5 hours, but all they gave me was a piece of a towel and a little disinfectant, which I used on the bars as my food had to pass through them. The heat and mosquitoes were too bad to sleep, so I spent most of that night (the 24th) scrubbing that cell. You may recall that I weigh 320 lbs. The only way I could scrub the floor with that piece of towel was to get down on my hands and knees. I tried to lie on the bed and clean a spot on the floor to begin on my hands and knees. I wanted to keep from getting the feces and urine all over me, but I failed miserably! When I had the cell as clean as I could get it, I washed myself, and then my boxers. A sergeant came along and told me to take the clothesline down or get written up. It just seemed that everything was working on me as punishment."

20. Health care for Death Row prisoners is as glaringly deficient as mental

health care. There are long waits to see the physician, emergencies are not managed adequately, prisoners complain that there are interruptions in the daily provision of medications, prisoners on Death Row are not offered medical and surgical treatments that are indicated for their conditions and are available to prisoners in other units, and so forth. Regarding heat-related illness, Dr. Susi Vassallo states in her 8/31/02 Expert's Report: "All of the inmates on Death Row are at high risk of heat stroke and heat-related illness. In the extremely hot environment I experienced in Unit 32, and as confirmed by the temperature and humidity measurements taken by environmental expert James Balsamo, even individuals without any underlying medical conditions would be expected to suffer heat-related illness. However, many of the prisoners are at particularly heightened risk of serious heat-related illness and permanent injury."

21. Inadequate health care has destructive psychological consequences. Many prisoners expressed great anxiety about getting sick and not receiving adequate treatment. Several prisoners told me that they have witnessed other prisoners become acutely ill only to be left in their cells without medical attention for many hours, and they are anxious that they would receive the same inattention were they to become deathly ill. Two prisoners confided that they plan to give up their capital appeals because they are terrified that they will eventually get sick, receive inadequate health care and become terribly disabled. Both prisoners confided that they would rather be dead, and this is why they plan to waive their legal appeals.

22. Besides the gross deficiencies in medical and mental health care, I observed first-hand a number of the other inhumane conditions of which the prisoners complain, including the "ping pong toilets." When a prisoner flushes his toilet, the waste backs up into his neighbor's toilet. Many of the prisoners cover their toilet bowl with a towel in order to slow the overflow of waste from their neighbor, but this is likely to leave them without a clean towel. Worse, if a prisoner suffering from serious mental illness stuffs something down his toilet in order to stop it up, the toilets up and down the tier back up and waste overflows onto the floor in all the cells.

Environmental Expert James Balsamo summarizes his findings:

"Conditions in this facility, including excessive heat, filth, uncontrolled insect and mosquito infestations with attendant risk of West Nile infection, inadequate water supply, water leaks, impaired ventilation, uncontrolled water temperatures, malfunctioning toilets, the apparent lack of adequate cleaning supplies, food being held and served at unsafe temperatures,

unsanitary laundry, broken automatic fire detection and alarm system, excessive noise, and extremely poor lighting, all combine to seriously jeopardize the health and safety of the inmates and the correctional officers who live and work in Unit C-32, Death Row."

23. The high risk of morbidity and mortality on Parchman's Death Row due to extremes of heat and humidity requires urgent attention. It was 90 degrees in some of the cells as measured by Mr. James Balsamo in the evening of the day we toured, and August 8 was a relatively cool day for the Mississippi Delta. The temperature and humidity are often significantly higher during this summer and other summers. Thus, the reported outdoor high on August 8, 2002, was 91 degrees F; while the high on 7/31 was 93, on 8/1 it was 93, on 8/2 it was 94, on 8/3 it was 97, on 8/4 it was 98, on 8/5 it was 95, on 8/6 it was 96, and on 8/7, the day prior to our tour, it was 97. Any time the ambient temperature exceeds 88 degrees Fahrenheit there is significant danger of heat-related morbidity and mortality (see Dr. Susi Vasallo's Report). This is especially the case for prisoners suffering from serious mental illness and taking psychiatric medications or any other anticholinergic or otherwise implicated medications (see my July 7 Declaration).

24. I had myself locked for a few minutes into Willie Rusell's "special management" cell, which has a Plexiglas cover over the metal door, and experienced even more discomfort than I felt in the regular cells. Even being locked in the cell for a few minutes I could feel the temperature and humidity rise. This kind of punishment is well known to cause intense anxiety and rage, psychiatric breakdown, and in a large proportion of cases, suicide.

25. A certain modicum of dignity and self-respect is a requirement for the maintenance of sound mental health. Most of the prisoners I spoke to were very upset by what they consider arbitrary rules that inflict unnecessary pain and deprivations. For example, policy prohibits prisoners from moving their mattresses from the concrete slabs under the window, there are several reasons why prisoners urgently want to move from under their windows.

When state prisoners in cells above flood their toilets, or when rainwater pours in along the outer cell wall onto the bed, yet the prisoner is not allowed to move his bed away from the water. In many cells, the afternoon sun shines through the windows directly onto the prisoners' bunks, yet policy prohibits the prisoners from covering their window to avoid the sun's

glare. Several inmates spoke of their attempts to lie on the floor in order to gain relief from the excruciating heat, only to be told by officers that they will be given a disciplinary write-up if they lie on the floor. While prisoners are required to keep their cells clean, the officers do not bring them sufficient cleaning materials. A prisoner explains: "They bring a bucket of water and a mop to the first cell on the tier, and then when that guy's finished cleaning his cell they take it to the next cell. By the time the bucket gets to the third cell the water is filthy, and they never even bother taking it past the first few cells on the tier. So the guys in the further back cells never get a chance to clean their cells." MDOC recently instituted a policy that the men on Death Row must wear other inmates' used underwear. Many of the prisoners I interviewed felt that being forced to wear another man's used underclothes, which they have no way of sanitizing, was so repugnant, humiliating and demeaning, that they would rather incur discipline than obey orders to do so.

26. Most of the prisoners feel that the rules are enforced in erratic and unpredictable ways. I asked some prisoners why they did not purchase a television or radio when they are permitted to do so, and was told by several prisoners that a television costs over \$300, and they can never know when it will be taken away from them for purely arbitrary reasons. The attitude of many prisoners was summed up by one man: "What's the use? Why purchase a television when it can be taken from you in a minute and you may or may not get it back?" Mr. Nathan discusses flaws in the disciplinary system in his report.

27. The prisoners corroborated all concerns I culled from the Affidavits for my July 7 Declaration regarding telephone calls, visits and mail. (§ 53 - 58). Many prisoners told me they do not have visits for a variety of reasons, including the limiting of visits for Death Row prisoners to weekdays when their loved ones work. Phone calls are expensive and their mail can be halted on account of a disciplinary infraction, or if they lack the money to purchase stamps at the commissary they cannot write letters. In these and other ways, their contacts with loved ones outside of Death Row are blocked or restricted, and as a result they feel very isolated and are prone to all the psychiatric hazards of isolation I described in my July 7 Declaration.

28. The perception among prisoners is of incessant, unrelenting and arbitrary deprivations and punishments. According to Steve Knox: "Every rule change is for the worse they took our shoes and we have to go out on the yard in the

rain and get our feet wet, and we can't even run and get any exercise in those shower clogs; then in April (2002) they took most of our photographs and limited us to keeping only ten letters from loved ones in our cells, I don't know why, but it was hurtful, those letters are all I have from my sister and others I love; then they stopped stamps from coming in through the mail you have to buy them in commissary - I don't have money, I was broke for two months and that meant I couldn't write to anyone." According to another prisoner, "It seems like everything they do around here is aimed at driving you crazy."

29. A certain amount of sadness is obviously to be expected in a Death Row setting, but at Parchman I discovered rampant depression, hopelessness and suicidal ideation, far beyond what I have observed on Death Rows in other states. The prisoners connect their sense of despair and lack of hope to the harsh conditions and incremental deprivations they feel are unfairly forced upon them. The prisoners' gloomy characterization of the incremental deprivations is born out by my observations. Things are taken away, things are never given. There are no programs and few if any opportunities for the prisoners to improve their situation by behaving well. Hope fades of ever being treated like a human being again. Despair sets in.

30. I saw much evidence of psychiatric breakdown. I mentioned in my July 7 Declaration that under the extreme conditions of isolated confinement, psychiatric symptoms begin to emerge in previously healthy prisoners, and in less healthy ones there is psychosis, mania or compulsive acts of self-abuse and suicide. I also described some of the signs and symptoms of the SHU Syndrome (§ 20 & 21). Besides the despair and depression and the many cases of serious mental illness I have already described, my interviews with prisoners on August 8 uncovered widespread inability to concentrate on even the simplest tasks, severe memory loss, depersonalization, paranoia and so forth - i.e. all the symptoms of The SHU Syndrome. Many prisoners told me about the rage they feel, in spite of their every effort to remain peaceful. One prisoner tells me he gets angry, then he gets into heated conversations with other prisoners or officers, then he "sasses a guard, then I get written up and lose privileges; a favorite for them to take is canteen, and that makes me angrier. I know it's a losing battle and that it's the prison that makes me so angry - I try not to get angry, but I can't stop myself." Another prisoner confides: "I'm always afraid something bad's going to happen to me."

31. It is very clear that while isolation and idleness alone would cause many

troubling psychiatric symptoms, the other harsh conditions in effect on Parchman's Death Row - including but not limited to the extremes of heat and humidity, the grossly unsanitary environment, the vermin, the arbitrary and punitive disciplinary policies, and inadequate health and mental health care - significantly increase the risk of prisoners developing major psychiatric problems and increase the severity of despair and psychiatric morbidity that plague these prisoners. The presence of severely disturbed prisoners on the tiers decidedly worsens the psychiatric symptoms of other prisoners. It is likewise highly anxiety-producing for prisoners to watch as a neighbor suffers seemingly life-threatening medical symptoms and yet is left entirely unattended by medical staff. The very anxious prisoner, who is prone to panic attacks with an accompanying sense that he cannot get enough air to breathe, cannot tolerate filthy conditions, extremes of heat and humidity and a situation where he must keep his window shut no matter how hot it is if he is to keep the bugs out of his cell; in fact, these are precisely the conditions that would lead him to experience objective problems breathing along with a subjective sense of breathlessness and panic. Prisoners suffering from mental illness also suffer extreme anxiety when they realize that nobody will respond to their calls for help because the intercom is nonfunctional and staff are often not present on the tiers (see Report of Security Expert Vincent Nathan). This anxiety will inevitably cause a certain number of prisoners suffering from anxiety to act inappropriately, for example by hollering or banging on their doors, to summon staff. According to the prisoners with whom I spoke, when staff eventually do get around to responding, they pay more attention to the fact that the prisoner is making noise than to the emergency needs that led the prisoner to try so hard to get the staff's attention. Again, as in many other instances, the staff's response is likely to be limited to punishment, a disciplinary infraction perhaps, and meanwhile the prisoners' concerns about the lack of emergency response go unheard.

32. All the inhumane conditions I have described combine to make life unbearable on Death Row at Parchman. For example, Jimmy Mack waived all further appeals while he was confined for a long time behind a plastic-covered door in a special management cell. He explained to me, "If I'm going to have to live like that, you might as well just kill me." Recently he was removed from that cell and decided to permit his appeals to go forward. Willie Russell continues to be incarcerated in this kind of cell, where he has been for two years.

33. It is a matter of great urgency that Death Row prisoners suffering from severe mental illness receive appropriate treatment. There are at least three, and possibly more, prisoners on Death Row who are so severely mentally ill that they are incapable of maintaining their personal hygiene, who smear their cells with excrement and garbage, and who shriek day and night. It is cruel and unconscionable to leave these severely mentally ill prisoners completely without care in these conditions. It is equally cruel to the remaining prisoners to subject them to the extreme behaviors of the severely ill inmates; to do so causes mental breakdown in them, as well. Prisoners with serious mental illness must be moved to a secure treatment facility where they can receive competent and humane treatment, and where their behavior will not cause severe mental illness and great pain and suffering in other prisoners housed next to them.

34. In preparation for our August 8 tour, MDOC staff actually showered the three most severely disturbed prisoners and cleaned their cells. For the sake of basic decency, staff must clean these prisoners and their cells on a daily basis as long as their psychiatric condition is so deteriorated that they cannot attend to their own hygiene, and not just when an inspection tour by an outside agency is about to occur. Furthermore, it is well known that confining prisoners who are severely disturbed in a cell 23 or 24 hours per day and leaving them idle and isolated will make their psychiatric condition deteriorate even further. They must be offered supervised and safe therapeutic activities and social interaction aimed at improving their mental status or at least preventing further deterioration. Mental health staff trained in intervening with very disturbed patients must spend significantly more time with these prisoners than the few minutes at cell front the mental health staff currently spend. A standard, minimally acceptable treatment regimen for patients this seriously disturbed includes an intensive behavior modification program and training in personal hygiene and cell sanitation, plus sufficient intervention by mental health staff to educate them about their psychiatric illness and the benefits of proper psychiatric medications and other treatments. In addition, mental health staff need to train security staff about severe mental illness and effective ways to intervene with severely disturbed prisoners, and intensive treatment planning is needed, including ongoing case conferences and meetings between mental health and security staff regarding management and treatment of these prisoners.

35. There is a larger number of prisoners on Death Row who are suffering from serious mental illness, yet are not so disturbed that they foul their cells

and create constant noise and disruptions. These prisoners are receiving psychiatric medications while receiving almost no other treatment and being left almost entirely idle and isolated in their cells. Continued isolated confinement is very likely to cause further deterioration of their psychiatric conditions, and they require more intensive treatment than can be administered in the Death Row setting. A secure treatment facility must be established that provides necessary therapeutic programs in a setting that will not increase psychiatric illness.

36. The remaining Death Row prisoners, those who are currently in relatively sound mental health, are all at serious risk for psychiatric breakdown because of the conditions on Death Row. These prisoners have a right to be free of the unsanitary conditions, the vermin, the unbearable and unhealthy heat and humidity, the malfunctioning plumbing and sewage system, the arbitrary and ineffective disciplinary policies and practices, the inadequate health and mental health care and all the other inhumane conditions outlined in my report and that of the other experts. How would the average citizen in the community react, knowing that the water can shut off and not be restored for a week at any time during a heat wave? That they are helpless to take basic precautionary measures against West Nile virus? That there is nothing they can do to prevent their toilet from overflowing at any time with waste from neighbors' cells? That in case of fire or a heart attack there would be inadequate and slow emergency response? Any of these things, and certainly all of them in combination, would predictably cause anxiety, panic attacks, increased despair or intensified delusions, depending on the individual's vulnerabilities.

37. There needs to be an adequate suicide prevention and treatment program for the Death Row inmates, so that those in despair and contemplating suicide can talk to a sympathetic mental health staff member in a safe and therapeutic setting. The prisoners tell me either that they feel that the staff is not interested in having any real therapeutic contact, or that they are unwilling to discuss their suicidal inclinations at their cell door within earshot of other prisoners and prison staff; or that they are afraid to admit how seriously they are contemplating suicide because they would only be stripped and thrown into an observation cell on Unit 42 where they would be even more isolated than on Death Row. Dr. Bearry's incredible statement to me that there has not been any reported suicidal ideation on Death Row in years shows the need for a less noxious suicide prevention facility, and much better access to sympathetic mental health staff in a confidential office

setting.

38. Even well behaved prisoners on Death Row at Parchman are forced to endure permanent and almost total isolation and idleness. There is no reason for all Death Row prisoners to be kept in their cells 23 or 24 hours per day.

Of course there are prisoners who require special security precautions, and there are prisoners who are legitimately punished for disciplinary infractions. But many of the prisoners on Death Row have maintained good disciplinary records and are not viewed by staff as especially dangerous. More out-of-cell activities should be offered to these prisoners: a better athletic area and the use of athletic shoes during exercise to allow for aerobic exercise; permission to exercise with one or two other prisoners; dayroom activities such as games around a table or group television time, contact visits with family; all are possibilities. The existence of programs of this kind motivates good behavior. If a prisoner proves he is too great a security risk to take part in these activities, the consequence can be temporary loss of these activities until the prisoner proves he can handle the greater freedom or social interaction.

39. Death Row prisoners need a modicum of hope that through good behavior they can positively affect their situation. Human beings are most likely to respond positively to punishments that are specific to their offenses and time-limited, so they can feel some hope that with better behavior they can earn a better situation for themselves. On Death Row at Parchman, the punishments are so severe and often so arbitrary, and the length of many of the deprivations or punishments is so long or indeterminate, that the prisoner despairs of ever alleviating his suffering. The epitome of this unacceptable scenario is the continued confinement for the past two years of Willie Russell in a stripped down plastic-covered cell.

Respectfully submitted,

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August 30, 2002