

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

STATE OF CONNECTICUT OFFICE OF	:	Civil Action No.
PROTECTION AND ADVOCACY	:	
FOR PERSONS WITH DISABILITIES;	:	
JAMES MCGAUGHEY, Executive	:	
Director, Office of Protection and	:	
Advocacy for Persons with Disabilities,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
WAYNE CHOINSKI, Warden,	:	
Northern Correctional Institution,	:	
in his official capacity;	:	
GIOVANNY GOMEZ, Warden,	:	
Garner Correctional Institution,	:	
in his official capacity; and	:	
THERESA C. LANTZ, Commissioner,	:	
Connecticut Department of Correction,	:	
in her official capacity;	:	AUGUST 6, 2003
	:	
Defendants.	:	

**COMPLAINT**

1. This action is brought pursuant to 42 U.S.C. §1983, seeking declaratory and injunctive relief on behalf of prisoners and detainees with mental illness who are confined at Northern Correctional Institution (NCI) in Somers, Connecticut, and Garner Correctional Institution (GCI) in Newtown, Connecticut. Plaintiffs allege that, by knowingly confining these prisoners and detainees under conditions which are certain to cause great suffering and exacerbation of their mental illness, defendants are inflicting cruel and unusual punishment on

these prisoners, in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and subjecting these detainees to punishment, in violation of the Fourteenth Amendment to the United States Constitution.

### **JURISDICTION**

2. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §1331 because this action arises under the Constitution and laws of the United States, and pursuant to 28 U.S.C. §1343(a)(3) because this action seeks to redress the deprivation, under color of state law, of civil rights.

3. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57.

4. This Court has jurisdiction to grant injunctive relief pursuant to Fed. R. Civ. P. 65.

### **VENUE**

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because defendants reside in this district, and because a substantial part of the events and omissions giving rise to plaintiffs' claims occurred in this district.

### **PARTIES**

6. Plaintiff State of Connecticut Office of Protection and Advocacy for Persons with Disabilities (OPA) is responsible for providing protection and advocacy services to individuals with disabilities pursuant to Conn. Gen. Stat. § 46a-7 to 11. It is also allotted federal funds pursuant to the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI), and is thereby obligated to similarly provide protection and advocacy services for

persons with mental illness pursuant to 42 U.S.C. §§ 10801 – 108027. Under PAIMI, OPA is also authorized to investigate suspected incidents of abuse and neglect and to pursue administrative, legal and other remedies on behalf of individuals with mental illness wherever programs for such individuals are operated within the State of Connecticut or within the state's control. 42 U.S.C. § 10805.

7. The interests OPA seeks to vindicate by bringing this lawsuit – the protection of the rights of mentally ill persons – are central to OPA's purpose. Plaintiff OPA is charged with the statutory responsibility to represent the interests of persons with mental illness in state institutions, who also have standing to sue in their own right.

8. Plaintiff James McGaughey is the Executive Director of OPA. He is authorized to investigate and bring suit on behalf of persons with disabilities pursuant to Conn. Gen. Stat. § 46a-11.

9. Defendant Wayne Choinski is the Warden of Northern Correctional Institution. As such, he is the legal custodian of all prisoners housed at NCI, and is responsible for the safe, secure, and humane housing of those prisoners. At all times relevant hereto, he has acted under color of state law. Defendant Choinski is sued in his official capacity.

10. Defendant Giovanni Gomez is the Warden of Garner Correctional Institution. As such, he is the legal custodian of all prisoners housed at GCI, and is responsible for the safe, secure, and humane housing of those prisoners. At all times relevant hereto, he has acted under color of state law. Defendant Gomez is sued in his official capacity.

11. Defendant Theresa C. Lantz is Commissioner of the Connecticut Department of Correction (CDOC). As such, she is the legal custodian of all prisoners housed in CDOC

facilities, and is responsible for the safe, secure, and humane housing of those prisoners. At all times relevant hereto, she has acted under color of state law. Defendant Lantz is sued in her official capacity.

### **STATEMENT OF FACTS**

12. The State of Connecticut operates a “unitary” correctional system, meaning that there is no separate jail system to house pretrial detainees. Thus, CDOC facilities house both convicted prisoners and pretrial detainees. Pretrial detainees are presumed to be innocent and are protected by the Due Process Clause of the Fourteenth Amendment against any conditions that constitute punishment.

13. Northern Correctional Institution (NCI), located in Somers, Connecticut, is the highest-security prison operated by the CDOC. It houses approximately 475 male prisoners, both pretrial detainees and convicted prisoners. Almost all of the prisoners at NCI are subject to a three-level “phase” program. A prisoner must progress sequentially through all three phases in order to be sent to a less restrictive institution. If a prisoner in Phase II or III receives a disciplinary charge, or is deemed by prison staff to have a “poor attitude” or to “lack motivation,” he can be returned to Phase I, where he must begin the process over again.

14. Garner Correctional Institution (GCI), located in Newtown, Connecticut, houses approximately 800 male prisoners, both pretrial detainees and convicted prisoners. Approximately 300 of its beds are designated for prisoners with moderate to severe mental illness, including an 18-bed acute unit (IPM) and a 22-bed Intensive Mental Health Unit (IMHU) for disruptive prisoners with mental illness.

### **NORTHERN CORRECTIONAL INSTITUTION (NCI)**

## **Conditions of confinement**

15. Prisoners in Phase I at NCI are subjected to social isolation and sensory deprivation that approach the limits of human endurance. They are entombed in windowless concrete cells virtually 24 hours a day, seven days a week.

16. The cell doors at NCI are solid steel; the only opening is a small food port below waist level. One small wall slit provides limited outside light into the cell. Prisoners in Phase I are allowed out of their cells only to shower and for recreation. For many of these prisoners, “recreation” has involved being placed in full body restraints for the entire time the prisoner is in the recreation area. These conditions make any kind of recreation or exercise impossible, and have led many prisoners to choose to forego recreation, and simply remain locked in their cells 24 hours a day.

17. Phase I prisoners are deprived of virtually all social contact and environmental stimulation. They are allowed no congregate activity and very few possessions. There are no educational or other programs. Visiting is non-contact and is severely restricted. Because of illiteracy or mental illness, many prisoners are unable even to read or write. Thus, they spend months, or even years, in a state of almost total idleness.

## **Effect on the mentally ill**

18. Mental illness is prevalent at NCI. Previously healthy prisoners become mentally ill as a result of confinement under these conditions. With regard to prisoners who are already mentally ill upon their arrival, conditions at NCI cause serious and sometimes catastrophic deterioration in their mental health. As a result, numerous prisoners at NCI hear voices and are obsessed with suicidal thoughts; others swallow razors and other objects,

smash their heads into the wall, compulsively cut their flesh, attempt suicide by drug overdose, attempt to hang themselves, and otherwise attempt to harm or kill themselves.

19. Most prisoners at NCI are housed with a cellmate in a cell measuring approximately seven by twelve feet. For mentally ill prisoners, the constant presence, in extremely close quarters, of a cellmate they have not chosen is extremely stressful, and may exacerbate the prisoner's paranoia, anxiety, or other symptoms of mental illness. Because prisoners with mental illness are perceived by other prisoners as weak, they are at increased risk of victimization by their cellmates. Many mentally ill prisoners at NCI are terrified of their cellmates; some have been physically attacked or sexually assaulted by their cellmates.

20. Many mentally ill prisoners receive disciplinary charges for behavior that is a symptom of their mental illness. Therefore, they are retained in Phase I for months or even years at a time. The more severe a prisoner's mental illness, the more likely he is to become stuck in Phase I, where the harsh conditions will exacerbate his mental illness still further.

### **Mental health care**

21. Despite the overwhelming need, mental health services at NCI are systemically inadequate. There is insufficient staffing to meet the needs of mentally ill prisoners. As a result, both monitoring and treatment of mentally ill prisoners are inadequate. Although many mentally ill prisoners are prescribed powerful psychotropic medications with potentially dangerous side effects, they are rarely, if ever, seen by a psychiatrist. When mental health staff do speak with prisoners, it is frequently done at cell-front, within earshot of other prisoners and staff. Many prisoners refuse to speak with mental health staff under these conditions because they fear harassment and victimization if other prisoners learn that

they are suicidal or suffering from other mental health problems. Thus, these cell-front interviews are worse than useless; because of the complete lack of confidentiality, a prisoner may tell mental health staff that he is fine, when he is in fact paranoid, hallucinating, or contemplating suicide.

22. Serious mental illness often goes undiagnosed at NCI. In many cases, a prisoner who has been diagnosed as seriously mentally ill before coming to prison, has received years of treatment in the community for that mental illness, has been admitted to a psychiatric hospital, and has been placed on powerful psychotropic drugs is nevertheless deemed by prison mental health staff to be merely “malingering” or “manipulating.” As a result, these prisoners do not receive the treatment they need for their mental illness.

### **Punishment of the mentally ill**

23. Because many prisoners with serious mental illness are believed to be merely “malingering,” manifestations of their mental illness are interpreted by prison staff as willful misconduct and are punished accordingly. Some prisoners have received disciplinary charges for suicide attempts or self-mutilation that is a symptom of their mental illness; others have received disciplinary charges for merely reporting to staff that they feel suicidal.

24. In other cases, prisoners who report feeling suicidal are stripped naked and tied down in four-point restraints. This harsh and degrading treatment makes the prisoner even more prone to suicide, and reduces the chance that he will report his suicidal feelings in the future.

25. Due to the oppressive conditions of confinement and inadequate mental health services at NCI, prisoners become mentally ill, or their mental illness worsens. Excessive

force is a common occurrence at NCI, and exacerbates the condition of mentally ill prisoners. Custodial staff are not properly trained in the identification and management of mentally ill prisoners. Thus, when prisoners manifest their illness by self-harm or other behaviors, NCI staff often respond with force rather than with appropriate mental health interventions.

26. Mentally ill prisoners are placed in “in-cell restraints” for many hours at a time. Mentally ill prisoners are often subjected to violent “cell extractions,” sometimes including the use of immobilizing gas. The use of such force on mentally ill prisoners exacerbates their mental illness and makes them more prone to self-harm or suicide.

#### **GARNER CORRECTIONAL INSTITUTION (GCI)**

27. Mentally ill prisoners are sometimes transferred from NCI to GCI, where mental health staffing is richer and conditions of confinement are sometimes less oppressive. However, such transfers are haphazard; there is no system to ensure that prisoners are in fact transferred from NCI to GCI when their mental illness requires it. In addition, a mentally ill prisoner may be transferred from NCI to GCI, where his condition stabilizes, only to be transferred back to NCI, where the harsh conditions cause him to deteriorate further.

28. Moreover, conditions at GCI, particularly for prisoners confined in the acute unit (IPM) or the Intensive Mental Health Unit (IMHU), are in many respects similar or identical to those at NCI. Indeed, defendants deliberately take steps to ensure that conditions in these two units are approximately as harsh as those at NCI. Prisoners in the IMHU are subjected to a three-level “phase” program that is substantially identical to that at NCI. In the IMHU, as at NCI, prisoners in Phase I are subjected to nearly constant cell confinement and enforced idleness, with visiting, recreation, and telephone privileges severely limited. On the

rare occasions when these prisoners are allowed to leave their cells, they are required to be in full restraints at all times. Although the IMHU purports to be a mental health unit, these harsh and punitive conditions only exacerbate the illness of mentally ill prisoners.

29. At GCI, as at NCI, there are frequent uses of force by staff against mentally ill prisoners, including violent “cell extractions” and improper use of restraints. Mentally ill prisoners often receive disciplinary charges for behavior that is the result of their mental illness.

30. At GCI, as at NCI, mental health “treatment” often consists of non-confidential cell-front interviews. Mental health staff frequently label prisoners who are seriously mentally ill as “manipulating” or “malingering,” with the result that those prisoners do not receive the treatment they need for their serious mental illness.

31. These harsh conditions at GCI are especially harmful to prisoners in the IPM and the IMHU. Prisoners in these units are, by definition, among the most acutely and seriously mentally ill prisoners in the Connecticut Department of Correction. To punish them with near-total cell confinement, enforced idleness, and punishment and use of force, just when their mental illness is most debilitating, results in great suffering and exacerbation of mental illness.

### **General factual allegations**

32. The conditions described in this Complaint result in gratuitous pain and suffering, and pose an imminent danger of serious illness, injury, or death to prisoners with mental illness.

33. In imposing the conditions described in this Complaint, defendants have acted

with deliberate indifference to the serious health, safety, and mental health needs of prisoners with mental illness, and to the risk that these prisoners will suffer serious illness, injury, or death. Defendants have repeatedly been made aware of these conditions by litigation, prisoner grievances, and other means, but have failed to take reasonable corrective action.

34. The conditions described in this Complaint are likely to persist unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

### **CAUSES OF ACTION**

35. By subjecting convicted prisoners with mental illness to the conditions of confinement described herein, with full knowledge of those conditions and of their devastating effects on these prisoners, defendants have acted, and continue to act, with deliberate indifference to these prisoners' serious health, safety, and mental health needs, and have subjected these prisoners to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments to the United States Constitution, as enforceable through 42 U.S.C. § 1983.

36. By subjecting pretrial detainees with mental illness, who are presumed to be innocent, to the conditions of confinement described herein, with full knowledge of those conditions and of their devastating effects on these prisoners, defendants have acted, and continue to act, with deliberate indifference to these prisoners' serious health, safety, and mental health needs, and have subjected these prisoners to punishment, in violation of the Fourteenth Amendment to the United States Constitution, as enforceable through 42 U.S.C. § 1983.

## **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully request that the Court:

1. Issue a judgment declaring that the actions of defendants described herein are unlawful and constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and punishment in violation of the Fourteenth Amendment to the United States Constitution;
2. Permanently enjoin defendants, their subordinates, agents, employees, and all others acting in concert with them, from subjecting prisoners with mental illness to the conditions described in this Complaint;
3. Grant plaintiffs their reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 and other applicable law; and
3. Grant such other relief as the Court considers just and proper.

Respectfully Submitted,

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