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CLASI v. Coupe

Summary of Agreement and Order of September 1, 2016 regarding Solitary Confinement

On August 6, 2015, Community Legal Aid Society, Inc. ("CLASI") filed a lawsuit in United States District Court in the District of Delaware alleging that the Delaware Department of Corrections violated the 8th Amendment to the United State Constitution, which prohibits cruel and unusual punishment, by housing mentally ill inmates in solitary confinement and failing to address adequately the serious mental health needs of DOC inmates with mental illnesses. ACLU-Delaware and Pepper Hamilton LLP co-counseled the case with CLASI. On September 1, 2016, the court signed an agreement and order retaining jurisdiction for five years to enable CLASI to monitor compliance. The agreement provides for comprehensive systemic relief including the following:

1. "Restrictive housing," formerly known as solitary confinement, will change so that inmates in non-disciplinary Restrictive Housing will receive increased out of cell time as follows:
 - a. Non-mentally ill inmates will be offered 17.5 hours of unstructured recreation per week;
 - b. Mentally ill inmates and seriously mentally ill inmates who do not require a residential treatment level of care will be offered 17.5 hours of unstructured recreation per week plus out of cell time for the structured therapeutic activities required by their treatment plans;
 - c. Seriously mentally ill inmates who require a residential level of care will receive 10 hours of structured therapeutic time out of cell, and 10 hours of unstructured out of cell recreation per week, irrespective of their housing unit or security level.
 - d. Inmates in protective custody in Restricted Housing will also receive time out of cell and therapeutic time consistent with these changes in practice.
 - e. All mentally ill and non- mentally ill inmates in disciplinary detention shall be offered five hours of unstructured recreation per week.
2. There will be no disciplinary sanctions for a class 1 violation by any inmate who is on the mental health roster without consideration of how their mental health issues may have contributed to their conduct.
3. No inmate may serve a disciplinary sanction of more than 15 consecutive days in disciplinary detention for any single rule violation, or any series of related rules violations. There must be a break of at least 15 days between disciplinary detention sanctions. Seriously mentally ill inmates will not be placed in disciplinary detention for any period of time unless there is an immediate danger and no alternative.

4. DOC will increase staffing of its mental health provider to meet the American Psychiatric and American Correctional Association standards, in part to enable it to comply with the increased treatment obligations of the agreement.
5. DOC will track—and CLASI will monitor—out of cell time offered to inmates in Restrictive Housing, the mental health care being provided to those who need it, and the programs provided in Restrictive Housing.
6. Mental health rounds in Restrictive Housing will be done once a week.
7. Mental health evaluations will be conducted in confidential settings.
8. Medication management appointments will be done every 90 days and in confidential treatment space.
9. When a mental health assessment is necessary as a result of cell front contact, the assessment will be done in a confidential setting.
10. DOC will create a Special Needs Unit at Baylor Women’s Correctional Institute, and in the meantime more treatment beds for mentally ill inmates will be provided at BWCI.
11. With CLASI’s input, DOC will develop clinical guidelines for group and individual counseling in Restrictive Housing.
12. DOC will construct a new building at Vaughn Correctional Center to provide more and better programming and treatment for maximum security inmates in Restrictive Housing. In the meantime, until the new building is built, current space will be utilized to provide that treatment and programing.
13. DOC will purchase equipment to allow inmates to attend and participate in group therapy.
14. DOC, with CLASI’s input, will issue recommendations for housing for youthful offenders.
15. DOC will work with the courts to reduce the number of court commitments to, and increase available bed space, at Mitchell Building at Delaware Psychiatric Center.
16. DOC security staff will receive training in how to work with inmates with mental illness.
17. DOC will expand its existing mental health Continuous Quality Improvement activities to ensure the mental health roster system is working effectively.
18. DOC will not release inmates from Restrictive Housing directly to the street, unless that is required by a court order. Discharge and planning will be offered to inmates in Restrictive Housing within 60 days of their release.
19. There will be no use of alternative meal plans (AMP or “loaf”) for disciplinary reasons.
20. The written work sheets will continue. But DOC is also studying other forms of treatment.

21. DOC will not use the cell at HRYCI that lacks a commode for Psychiatric Close Observation (PCO) or other housing.
22. Female inmates on PCO will obtain menstrual products, and inmates of all genders on PCO will have toilet paper- unless there is documentation of misuse of those products that raise safety or security concerns.
23. Inmates on PCO will be able to access reading and or writing materials including therapeutic materials absent documented safety or security reasons.
24. A team will be established, with CLASI's participation, to study quality of life issues in restrictive housing.
25. Anytime an inmate is in restrictive housing for more than six months, the warden must report to the Chief of the Bureau of Prisons as to why they continue to be there. A multidisciplinary team shall review every 90 days the status of any inmate in non -disciplinary Restrictive Housing.