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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2015/09/17/lawsuit-charges-delaware-prison-system-with-neglect-and-solitary-confinement-of-mentally-ill/>

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by [Aylin Manduric](#) | September 17, 2015

Last month, the Community Legal Aid Society Inc. (CLASI), along with the American Civil Liberties Union (ACLU), [filed a lawsuit](#) against the head of the Delaware Department of Correction (DOC) over the department's treatment of incarcerated people suffering from mental illness. CLASI argues that the DOC's current practices violate the Eighth Amendment of the U.S. Constitution as well as Article 1, Section 11 of the [Delaware Constitution](#), which prohibits cruel and unusual punishment and requires a proper regard for the health of prisoners.

The lawsuit aims to end what the plaintiffs frame as the DOC's cruel and unusual punishment of those with mental illness, particularly with regards to solitary confinement. In the documentation accompanying the lawsuit, CLASI asserts that inmates held in solitary confinement receive grossly inadequate mental healthcare, that the DOC's practice of solitary confinement causes significant harm to mentally ill prisoners, and that the DOC is aware of this harm and is deliberately indifferent to it.

Secure Housing Units (SHUs) and Secure Treatment Units (STUs) are highlighted in the lawsuit as centers of negligence and abusive isolation. According to the facts of the case being filed, one hundred people held in secure units are noted as having a mental health condition by the DOC. In these secure units, individuals are kept in their cells for 23 to 24 hours per day, and have no access to work, rehabilitation programs, religious services, or schooling. According to the allegations in the suit, the DOC has systematically failed to take into consideration prisoners' mental health before isolating them, resulting in serious harm as people with mental illness are held in conditions that exacerbate their symptoms.

In addition, the suit argues, mental health services in secure units are scarce, and what little care is available is compromised by a lack of privacy. In the more recently developed STU, people are permitted one hour outside their cells per day, one hour-long group therapy session per week, and a single hour of one-on-one therapy per month. In group therapy sessions, the prisoners are kept in cages that are positioned so as to prevent them from seeing each other, a condition which is not conducive to effective group therapy.

In many cases, poor conditions, gaps in treatment, and lack of privacy make individuals less likely to speak to mental health staff about their condition or seek the help they need. People held in the James T. Vaughn Correctional Center (JTVCC) might see a nurse as little as four times per year while receiving medication. Overall, they receive very limited contact with health staff, leading to inadequate monitoring and follow-up. Meanwhile, an SHU resident might have no human interaction at all in a given day besides a walk-by visit from a mental health services employee.

Insufficient access to care during extended periods of isolation are widely known to be impediments to good mental health, resulting in destructive and sometimes dangerous manifestations of mental illness. These can include refusing necessary medical treatment, insomnia, hallucinations, self-mutilation, suicide, and attacks on prison staff. Often this behavior is marked down as a disciplinary infraction and treated as willful misbehavior, rather than as a symptom of the prisoners' deteriorating mental health. As punishment, a person's time in solitary confinement is increased, often accompanied with further restrictions on phone and visitation privileges.

As CLASI remarks in the documentation accompanying the suit, many prisoners, because of mental illness, are trapped in an endless sequence of isolation and punishment, resulting in further deterioration of their mental condition, deprivation of adequate mental health treatment, and extension of their periods of extreme isolation. A lack of mental health staff, combined with a punitive attitude towards manifestations of mental illness create an environment that over two centuries of psychiatric research confirm as being unacceptably harmful to anyone with mental illness. The report notes, It is not unusual for prisoners with serious mental illness in solitary confinement to swallow razors.

According to the report, DOC has knowledge of the risks these deficiencies pose to prisoners with mental illness. Nevertheless, it permits them to continue. The DOC's own policies prohibit many of the abuses that are laid out in the lawsuit. Prison staff are required by the DOC's Policy Manual to evaluate a prisoner's medical records within an hour of placement in solitary confinement. Individuals who have received treatment for serious mental illnesses within a five year period of their disciplinary infraction must be promptly referred to health staff before placement in solitary confinement, and all those whose conditions would preclude them from solitary confinement

must be identified. Mental health evaluations must be conducted in private and within 24 hours of placement. The Policy Manual also encourages prison staff to pay close attention to the results of mental health assessments in order to determine the role a person's mental health condition might have played in their disciplinary infraction.

In addition to these rules, the DOCs own policy requires daily monitoring of people with mental illness who have been placed in solitary confinement. This monitoring is supposed to be conducted by a mental health professional and must include a face to face encounter where the clinician speaks to the patient, observes the patient's mental health condition, and verifies the patient is receiving any prescribed psychotropic medication, as well as an assessment of appropriate treatment and placement. By its own minimal standards, the DOC fails to adequately monitor people with mental illness in its secure units.

The complaint filed by CLASI contains a series of horror stories from within the Delaware DOCs secure units, which were used to illustrate some of the most grievous abuses suffered in the states prisons. One man who was diagnosed with schizophrenia before his incarceration filed a complaint for inadequate medical treatment during his time in the SHU in JTVCC. After filing the complaint, his drug regimen was supplemented with one-on-one therapy sessions that were meant to be conducted once per month. Frequently, his therapy is cancelled due to a lack of space in which to privately conduct the sessions, and the man is given only walk-by sessions in front of his cell door. These sessions last mere seconds, and do not allow for private conversations with the counselor.

Another individual in the JTVCC suffering from bipolar disorder, depression, and anxiety, was unable to receive medication for multiple weeks after being placed in SHU, and was denied any therapy sessions with mental health professionals. Others also suffered gaps in treatment and access to medications, as well as transfers into the SHU without an evaluation by a mental health professional. Many prisoners choose not to talk about their illnesses or request help for fear of reprisal or punishment by DOC staff. Suicidal actions are often punished with confinement in the naked room, a room containing only a mattress and a toilet, in which they are forced to wear nothing but an open smock. In the naked room, access to mental health care is even more restricted than in the rest of the SHU.

CLASI argues that by keeping people with mental illness in these conditions, the DOC puts them at substantial risk of serious harm. According to the facts of the case, the DOC was both aware of the abuses and able to put an end to them, though it failed to do so. By revealing and condemning the DOCs conduct, this legal action may help end the unnecessary suffering of, at the very least, the 100 individuals with mental health conditions currently imprisoned in the DOCs secure units.

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