

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

BRIAN MAST, MICHAEL WOODS, EUGENE)	
WELLS, on their own behalf and on behalf of a class)	
of those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	No.
)	
J. DAVID DONAHUE, in his official capacity)	
as Commissioner of the Indiana Department of)	
Correction;)	
CRAIG HANKS, in his official capacity as)	
Superintendent of the Wabash Valley)	Complaint-Class Action
Correctional Facility,)	
)	
Defendants.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introduction

1. The Indiana Department of Correction (“DOC”) maintains within the Wabash Valley Correctional Facility the Secured Housing Unit (“SHU”), a super-maximum penal facility which functions as a disciplinary segregation unit for DOC prisoners who have received at least two years of disciplinary segregation time and are deemed to be inappropriate to house elsewhere within the DOC. A significant number of prisoners in the SHU are mentally ill, and confining these prisoners in the conditions of extreme social isolation and sensory deprivation that exist in the SHU violates the Eighth Amendment to the United States Constitution. Injunctive and declaratory relief is sought for the prisoners bringing this action as well as for a class of those similarly situated.

Jurisdiction, Venue, and Cause of Action

2. This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331 inasmuch as it arises under the Constitution 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. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. Declaratory relief is authorized pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201, 2202.
5. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

Parties

6. Brian Mast is an adult resident of Indiana who is a DOC prisoner confined within the SHU.
7. Michael Woods is an adult resident of Indiana who is a DOC prisoner confined within the SHU.
8. Eugene Wells is an adult resident of Indiana who is a DOC prisoner confined within the SHU.
9. J. David Donahue is the duly appointed Commissioner of the Indiana Department of Correction. He is sued in his official capacity.
10. Craig Hanks is the duly appointed Superintendent of the Wabash Valley Correctional Facility within which is located the SHU. He is sued in his official capacity.

Class Action Allegations

11. Brian Mast, Michael Woods and Eugene Wells bring this action on their own behalf and on behalf of a class of those similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal

Rules of Civil Procedure.

12. The class is defined as:
 - all prisoners currently, and in the future, confined within the Secured Housing Unit at the Wabash Valley Correctional Facility who are mentally ill.
13. The requirements of Rule 23(a) are met with regard to the putative class. Specifically:
 - a. The SHU has a maximum capacity of 288 prisoners, many of whom are mentally ill. The specific persons in the class will change as new prisoners are brought into the SHU and other prisoners are discharged.
 - b. There are questions of law and fact common to the class, specifically whether confinement of mentally ill prisoners in the SHU violates the Eighth Amendment to the United States Constitution.
 - c. The claims of the representative parties are typical of those of the class.
 - d. The representative parties will fairly and adequately represent the class.
14. The further requirements of Rule 23(b)(2) are met in this cause in that at all times defendants have acted, and have refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

Statement of Facts

15. The SHU opened in 1993. It is located within the Wabash Valley Correctional Facility in Carlisle, Indiana.
16. The SHU functions primarily as a disciplinary segregation unit for the entire DOC. A small part of the SHU functions as the disciplinary segregation unit for the Wabash Valley Correctional Facility and there are a small number of Administrative Segregation prisoners from Wabash Valley Correctional Facility who are also housed there.

17. However, the large majority of the prisoners at the SHU are those who have accumulated at least two years of disciplinary segregation after being found guilty of infractions in other DOC penal facilities.
18. The SHU consists of four pods: A-East, A-West, B-East, B-West.
19. The SHU contains only male prisoners.
20. Each pod consists of 6 ranges which in turn contain 12 cells each.
21. B-East and B-West consist solely of long term disciplinary segregation prisoners.

Extreme Social Isolation and Sensory Deprivation

22. Prisoners in the SHU are subjected to levels of social isolation and sensory deprivation that approach the limits of human endurance. For prisoners with mental illness, these conditions lead to psychiatric deterioration, self-harm, and sometimes suicide.
23. Prisoners are locked in windowless single cells which are approximately seven feet by twelve feet. Each cell contains a concrete bed with a plastic mattress, a metal shelf, a fixed table and stool, and a combination sink and toilet.
24. Prisoners are generally confined to their cells 24 hours a day, except that they may be given the opportunity to go to a recreation area 1 hour a day where they may engage in solitary exercise. There is no group recreation.
25. The only recreation area is a small walled area adjacent to each range on the SHU. It contains only a basketball net approximately 16 feet above the ground and a fixed exercise bike. It is partially covered by a roof.
26. The walls of the recreation area are approximately two stories high. Given that the recreation area is only approximately fifteen feet by twenty-four feet, and given the height of the walls

- and the partial roof, the sun rarely is visible from the exercise area.
27. Because the recreation area is exposed to outside weather and temperatures, recreation is frequently not provided because of cold or inclement weather.
 28. Recently prisoners at the SHU have been provided coats and hats which they may wear outside. However, neither gloves nor boots are provided to prisoners at the SHU.
 29. In order to travel to the recreation area a prisoner is cuffed and led to the recreation area where he is released to engage in solitary recreation.
 30. The conditions of “recreation” are so harsh and unpleasant that many prisoners choose to forego it, and simply remain locked in their cells 24 hours a day.
 31. Prisoners are also offered a shower on a daily basis. In order to obtain a shower the prisoner is cuffed and led to the shower. The prisoner is then uncuffed and locked in the shower and may be left there alone for more than one hour. Many prisoners, either due to mental illness or because of these harsh conditions, choose to forego showers, and simply remain locked in their cells 24 hours a day.
 32. In fact, whenever a SHU prisoner leaves his cell he is cuffed.
 33. There are no windows or natural light in the cells in the SHU.
 34. Each cell contains a fluorescent light which may be turned off at night by the prisoner. However, the cell remains illuminated throughout the night, albeit at a lower level of brightness. This 24-hour illumination may interfere with sleep and further exacerbates mental illness.
 35. Prisoners receive their meals in their cells. Three times a day a food tray is inserted through a slot in the locked door of the cells.

36. Prisoners in the SHU are severely restricted in their ability to have books, letters, family photographs, or other personal items in their cells.
37. While SHU policy theoretically allows prisoners to “earn” a television through good behavior, in practice many prisoners, particularly those who are mentally ill, are not allowed to possess a television, thus exacerbating their isolation and lack of environmental stimulation.
38. The cell doors in the SHU contain air holes and a screen running the length of part of the door. However, if the prisoner is deemed to be a risk of throwing waste or other items at guards outside the cells, a hard plastic covering is placed so that the door is completely covered. This covering is called lexan and serves to further isolate the prisoner by muffling sound.
39. Prisoners are not able to see each other while in the SHU.
40. Because of this lack of physical contact, the SHU is an extremely noisy place with prisoners shouting at each other in an attempt to communicate.
41. All visitation takes place in cubicles through plexiglass. Many of the visitation booths do not contain telephones with which prisoners and visitors may easily converse. Instead, they must shout back and forth.
42. Many prisoners receive no visitors.
43. There is no durational limitation on how long a prisoner can be confined the SHU. And, if the prisoner receives additional disciplinary segregation time for offenses committed at the SHU, his period of confinement will be increased.

Endemic Mental Illness and Inadequate Mental Health Care

44. Mental illness is prevalent in the SHU. Mentally ill prisoners are disproportionately likely to be transferred to the SHU, because their inability to obey prison rules causes them to accumulate disciplinary infractions. For those prisoners who are already mentally ill upon their arrival, conditions in the SHU cause serious and sometimes catastrophic deterioration in their mental health. A large number of the prisoners at the SHU are severely mentally ill and many are taking anti-psychotic and similar medications.
45. The severe mental illnesses of the prisoners, exacerbated by the unbearable conditions in the SHU, cause them to engage in various behaviors including: having auditory and visual hallucinations; engaging in self-abusive behaviors, including ripping chunks of flesh from their bodies; rubbing feces on themselves; staring fixedly in their cells; and attempting suicide.
46. Indeed, despite the heightened security in the SHU at least four prisoners have committed suicide in the SHU since 2000. One prisoner hanged himself. Another set himself on fire. One cut his wrists and throat, and another swallowed a cloth and choked to death.
47. There is a psychiatrist who services the SHU as well as psychologists and other mental health staff. However, given the prevalence of mental illness in the SHU, mental health services are systemically inadequate.
48. Generally the psychiatrist and psychologists will have individual contact with prisoners by briefly conversing with them when they are in their cells within earshot of other prisoners and staff, or the prisoner is brought to a holding cell where he is spoken to through its door which is also within earshot of staff. These cell-front interviews are inadequate; 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.

49. There are groups run by the psychology staff. These are not traditional groups; rather, the prisoners are taken to the visitation area and are placed in individual locked cubicles which are generally used for visitation.
50. Each cubicle door has a small slit in it where the prisoner presents his hands to be cuffed and uncuffed.
51. During group these slits are opened and by bending down the prisoner is able to shout and talk to the therapist who stands outside the doors, talking to up to six prisoners.
52. There are not sufficient groups to serve all the prisoners at the SHU.

Punishment of the Mentally Ill

53. Prisoners in the SHU who report feeling suicidal or who are otherwise experiencing symptoms of mental illness may be placed in four point leather restraints which are used to strap the prisoners to beds. Usually this may last for four hours, although at times it may be for longer periods of time.
54. Prisoners who are deemed to be dangerous to themselves may be stripped to their underwear and put back into their cells with nothing other than a blanket. All other items will be removed from the cell. This may last for up to 72 hours or longer. This harsh and punitive treatment exacerbates the prisoner's mental illness and actually increases the risk of suicide or self-harm.
55. Excessive force is common in the SHU. Due to the oppressive conditions of confinement and inadequate mental health services in the SHU, prisoners become mentally ill, or their

mental illness worsens. When prisoners manifest their mental illness by self-harm or other behaviors, staff often misinterpret these symptoms of mental illness as willful misconduct, and respond with force rather than with appropriate mental health interventions. The SHU utilizes “cell extraction teams” to forcibly remove prisoners from their cells. The teams consist of at least five guards, wearing body armor and other protective material who rush into the cell and restrain the prisoner.

56. Frequently, the prisoners who are extracted are mentally ill and are not able to keep their behavior within acceptable boundaries as a result of their mental illness. The use of such force on mentally ill prisoners exacerbates their mental illness and makes them more prone to self-harm or suicide.
57. Mentally ill prisoners at the SHU may accumulate disciplinary infractions because of their inability to control their behavior due to the conditions at the SHU. This, in turn, leads to additional disciplinary time and more months, or even years, in the SHU. Thus, the more severe a prisoner’s mental illness, the more likely he is to become “stuck” in the SHU, where the harsh conditions will exacerbate his mental illness still further.

The Named Plaintiffs

Brian Mast

58. Brian Mast has been confined to the SHU for more than ten years continuously. His “out date” from the SHU is currently 2023, although his out date from DOC is 2014.
59. Until October of 2004 he was confined in a cell on B-East. Since then he has been confined to a cell on B-West.
60. He is seriously mentally ill, and has been diagnosed as suffering from intermittent explosive

disorder, borderline personality disorder and anti-social personality disorder.

61. He has a long history of self-abusive and self-mutilating behavior. On a number of occasions he has cut himself so badly that he has required hospital care.
62. He has been placed in a cell behind lexan.
63. At times he suffers from auditory and visual hallucinations.
64. He is currently taking a number of anti-psychotic medications.
65. At the current time he is not receiving any psychotherapy except for occasional contact with mental health staff through his cell door or the door of a holding cell.
66. He rarely goes to recreation because there is nothing available in the recreation area and it is very cold in the wintertime.
67. He therefore spends his day in isolation.
68. On a number of occasions he has been unable to conform his behavior to acceptable norms and he has been violently extracted from his cell by the cell extraction team.
69. On a number of occasions he has been strapped with four point leather restraints in a bed in a cell.
70. On a number of occasions he has been placed into a strip cell. The last time was in August of 2003 when he was on a suicide watch. He was in the strip cell for a week.
71. The conditions at the SHU have caused his mental health to deteriorate.
72. On April 26, 2004, he filed the following grievance pursuant to the DOC's grievance procedure, complaining of his placement in the SHU and pointing out that the conditions there are harmful to mentally ill prisoners. (See Attachment 1 [grievance] and 2 [DOC summary of grievance]). Mr. Mast noted that "the SHU is not designed to house mentally

(sic) inmates” and requested that he be transferred to a mental health facility. (Attachment 1).

73. The grievance was rejected because the DOC’s grievance policies specify that prisoners “may NOT grieve the following . . . Classification actions or decisions.” (See Attachment 1 and 2).
74. Not only does the DOC grievance policy prohibit such a grievance but the policy further provides that if a complaint or grievance is rejected as non-grievable it may not be appealed. (See Attachment 3 [excerpts from DOC’s grievance policy]).
75. Therefore, neither Brian Mast nor members of the putative class need to exhaust any grievance remedies to protest their placement in the SHU inasmuch as such protests concern classification decisions which are not grievable.

Michael Woods

76. Michael Woods is currently confined in B-East in the SHU. His “out date” from the SHU is currently in 2025.
77. In 2004, he was sent to New Castle Correctional Facility. This is a medium security facility which has a program for mentally ill prisoners. However, Mr. Woods was returned to the SHU from the New Castle program.
78. He has been diagnosed with a serious mental illness and receives psychotropic medications.
79. Medical records from New Castle discuss the fact that Mr. Woods is having auditory hallucinations.
80. Mr. Woods continues to suffer from hallucinations in the SHU.
81. His living area is filled with constant noise as prisoners yell and scream.

82. Mr. Woods finds this to be very distressing.
83. Within this noisy environment he is isolated and has very little human contact. There is lexan on his cell door.
84. He is not currently receiving any psychotherapy except for occasional contact with mental health staff through his cell door or through the door of his holding cell.
85. He does not go to recreation. In the winter no gloves or boots are provided and in all seasons there is nothing to do in the recreation area.
86. He generally takes a shower two times a week.
87. Other than this, he never leaves his cell.
88. He will occasionally talk to someone from the mental health staff when that person is on the range and comes to the outside of his cell or when he is brought to a holding cell.
89. Mr. Woods is not receiving adequate and appropriate mental health care for his serious illness.
90. The conditions at the SHU are causing him serious harm.

Eugene Wells

91. Eugene Wells is currently confined to B-East on the SHU. His out date from the SHU is 2019.
92. He is seriously mentally ill and is being prescribed anti-psychotic medications.
93. He is not receiving any psychotherapy except for occasional contact with mental health staff through his cell door or through the door of the holding cell.
94. He was last placed in a strip cell less than two months ago when he had a problem with one of the officers in the SHU. He was in the strip cell for five (5) days.

95. He has also been restrained with four point restraints in the past.
96. He only infrequently goes to recreation because there is nothing to do in the recreation area.
97. He takes a shower every other day.
98. Other than this he does not leave his cell.
99. He is not receiving adequate treatment for his mental illness.
100. The conditions in the SHU are causing him serious harm.

General Factual Allegations

101. The severe social isolation and lack of environmental stimulation in the SHU causes exacerbation of pre-existing mental illnesses and contributes to the psychological deterioration of the prisoners at the SHU.
102. The conditions in the SHU create a substantial risk of serious harm to mentally ill prisoners and, indeed, cause actual harm to them.
103. The conditions in the SHU deprive mentally ill prisoners of the minimal civilized measure of life's necessities.
104. At all times defendants were aware of this risk and harm and were deliberately indifferent to it.
105. At all times defendants were aware of this risk and failed to take reasonable steps to prevent the likely risk of harm caused by housing mentally ill prisoners in the SHU. In 1997, the human rights organization Human Rights Watch inspected the SHU with two psychiatrists who are experts in prison mental health issues. The Human Rights Watch report, of which defendants are aware, concluded that:

[w]arehousing severely ill and psychotic individuals under conditions

that increase their suffering by exacerbating their symptoms, and in facilities that lack adequate mental health services, can only be characterized as cruel. In some cases the suffering that results is so great that the treatment must be condemned as torture.

HUMAN RIGHTS WATCH, COLD STORAGE: SUPER-MAXIMUM CONFINEMENT IN INDIANA 11

(1997).

106. Plaintiffs and the putative class are being caused irreparable harm for which there is no adequate remedy at law.
107. At all times defendants have acted under color of state law.

Legal Claim

108. Confining mentally ill prisoners in the SHU, under the conditions described in this Complaint, violates the Eighth Amendment rights of plaintiffs and the members of the putative class.

Request for Relief

WHEREFORE, plaintiffs request that this Court:

1. Accept jurisdiction of this case and set it for hearing at the earliest opportunity.
2. Certify this case as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure with the class as specified above, and appoint the undersigned as class counsel pursuant to Rule 23(g).
3. Enter a declaratory judgment that the actions and inactions of the defendants described herein violate the Eighth Amendment to the United States Constitution.
4. Enjoin defendants from housing mentally ill prisoners in the SHU under the conditions described in this Complaint.
5. Grant plaintiffs their reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 and other applicable law.

6. Award all other proper relief.

Kenneth J. Falk
No. 6777-49
Indiana Civil Liberties Union
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059 ext. 229
Fax: 317/635-4105
E-mail: ken.falk@iclu.org

David C. Fathi
National Prison Project of the
ACLU Foundation, Inc.
733 15th St. N.W., #620
Washington, DC 20005
202/393-4930
Fax: 202/393-4931
Email: dfathi@npp-aclu.org
Practice limited to federal courts
Admission in this District pending

Attorneys for Plaintiffs