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July 29, 2014

Daniel H. Heyns, Director
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Millicent Warren, Warden
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VIA FIRST CLASS MAIL AND EMAIL

Re: Medically Dangerous, Inhumane, and Unconstitutional Conditions for Mentally Ill Inmates in Administrative Segregation at Women's Huron Valley Correctional Facility

Dear Director Heyns and Warden Warren:

We represent civil rights organizations whose missions include protecting the rights of prisoners. We write to request an investigation into the treatment of mentally ill prisoners at Women's Huron Valley Correctional Facility, and we urge you to take immediate action to ensure that such inmates are not deprived of water or food, and are free from the use of excessive force.

**Reports of Water Deprivation, Food Deprivation,
Unsanitary Conditions, Neglect, and Use of Excessive Force**

The American Civil Liberties Union of Michigan, in cooperation with other concerned civil rights advocates, has been examining the treatment of mentally ill prisoners at Huron Valley for several months after receiving numerous complaints. According to reports we have received from multiple individuals who have witnessed these events first-hand, mentally ill inmates at Huron Valley are being treated so inhumanely that we believe many corrections experts would characterize their experience as a form of torture. Witnesses have reported seeing mentally ill prisoners denied water and food, "hog tied" naked for many hours, left to stand, sit, or lie naked in their own feces and urine, denied showers for days, and tasered. If true, the reports we have received describe dangerous prison conditions that constitute a grave threat to the wellbeing of inmates and therefore demand your immediate attention.

We have received very disturbing reports of water deprivation. In administrative segregation cells housing mentally ill inmates, the water has been shut off and guards have failed to provide sufficient drinking water to the inmates in those cells for hours and possibly even days. We have been told that inmates requested water from guards and did not receive it. This is inhumane and medically dangerous, as water deprivation can lead to dehydration and in extreme cases death.

We are also very concerned about demeaning treatment of inmates who are suffering from serious mental illness. One inmate, who pleaded with a guard to help a mentally ill prisoner who was crying naked on the floor and unable to move—because her feet were cuffed to her hands behind her back—was told that her fellow prisoner would have to stay like that for two hours or more because she had not learned how to “behave.” The guard was referring to a young woman with serious mental illness who is unable to control her behavior unless her mental illness is properly treated.

At least one mentally ill inmate who experienced these abuses, specifically water and food deprivation and poor sanitation, was transferred to an outside hospital last month after she was found non-responsive in her cell. Through various sources we understand that she has since been pronounced brain dead.

This tragic incident is not unprecedented. In 2006, Timothy Souders, a 21-year-old mentally ill man in MDOC custody, died at Southern Michigan Correctional Facility as a result of neglect and torture—including use of restraints, water deprivation, and poor sanitation—that are frighteningly similar to conditions reportedly being experienced by mentally ill inmates at Huron Valley.¹

Denying inmates life-sustaining necessities such as water, food, and basic sanitation is barbaric and unconstitutional. The use of inhumane physical restraints and tasers as a method of punishing the mentally ill is likewise unconstitutional. These practices must stop before more lives are put at risk.

Use of Solitary Confinement Inappropriate for Mentally Ill Inmates

According to your own report, MDOC routinely imposes administrative segregation on inmates with serious mental illness (SMI) or developmental disorders (DD). In 2012-13 a daily average of 44 prisoners with SMI or DD were held in administrative segregation.² This practice has been repeatedly held to violate the Eighth Amendment by courts across the nation, and is condemned by many professional and humanitarian organizations. For such prisoners, “placing them in [segregation] is the mental equivalent of putting an asthmatic in a place with little air to breathe.”³ The Mental Health Association of Michigan states the use of administrative

¹ *Hadix v. Caruso*, 461 F. Supp. 2d 574, 577-80 (W.D. Mich. 2006); see also Elizabeth Alexander, *Prison Health Care, Political Choice, and the Accidental Death Penalty*, 11 U. Pa. J. Const. L. 1 (2009).

² Michigan Department of Corrections, Report to the Legislature, Administrative Segregation Report (2014), at http://www.michigan.gov/documents/corrections/03-01-14_-_Section_925_448212_7.pdf.

³ *Madrid v. Gomez*, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995); see also *Jones ‘El v. Berge*, 164 F. Supp. 2d 1096 (W.D. Wis. 2001); *Austin v. Wilkinson*, No. 4:01-cv-00071 (N.D. Ohio Nov. 21, 2001), at

segregation for people with mental illnesses “punishes people for having a brain disorder, and then exacerbates their conditions by creating an environment that is totally inconsistent with effective therapy.”⁴ The American Bar Association’s Standards on the Treatment of Prisoners calls for ending the use of solitary confinement of the mentally ill and for closely monitoring the mental health of those in solitary.⁵ The United Nations has called for a ban on the use of solitary confinement, especially for the mentally ill.⁶

The incidents reported to us confirm what mental health and correctional experts already know: placing mentally ill prisoners in isolation only exacerbates their symptoms. Responding to their symptoms by denying them water, food, sanitation, and subjecting them to physical punishment is both ineffective and illegal.

Conditions at Huron Valley Violate the Eighth Amendment’s Protections Against Cruel and Unusual Punishment

If the reports we have received are true, the mistreatment and neglect of mentally ill inmates at Huron Valley raises grave Eighth Amendment concerns. The Eighth Amendment prohibits the infliction of “cruel and unusual punishments” on those convicted of crimes.⁷ Individual instances of abuse in prison can arise to an Eighth Amendment violation, and “some conditions of confinement may establish an Eighth Amendment violation ‘in combination’ when each would not do so alone . . . when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need”⁸

The Sixth Circuit has held that the denial of adequate food, clothing, medical care, and reasonable safety are unconstitutional conditions of confinement violative of the Eighth Amendment.⁹ Unnecessary and wanton infliction of pain also amount to cruel and unusual punishment.¹⁰

<http://www.clearinghouse.net/chDocs/public/PC-OH-0001-0017.pdf>; *Coleman v. Wilson*, 912 F. Supp. 1282, 1320-21 (E.D. Cal. 1995); *Casey v. Lewis*, 834 F. Supp. 1477, 1549-50 (D. Ariz. 1993); *Langley v. Coughlin*, 715 F. Supp. 522, 540 (S.D.N.Y. 1988).

⁴ Mental Health Association in Michigan, *An Important Message on Solitary Confinement of Michigan Prisoners with Mental Disorders* (2012), at <http://www.mha-mi.com/2012/09/an-important-message-on-solitary-confinement-of-michigan-prisoners-with-mental-disorders/>.

⁵ *See* http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners.html.

⁶ *Solitary confinement should be banned in most cases, UN expert says*, at <https://www.un.org/apps/news/story.asp?NewsID=40097#.U9FLJ1Kf-So>.

⁷ *Wilson v. Seiter*, 501 U.S. 294, 296-97 (1991).

⁸ *Id.* at 304 (internal citation omitted).

⁹ *Barker v. Goodrich*, 649 F.3d 428, 434 (6th Cir. 2011).

¹⁰ *Id.*

In *Barker v. Goodrich*,¹¹ the Sixth Circuit found that the Eighth Amendment was violated where an inmate “was handcuffed behind his back for twelve hours, during which time he missed a meal and was unable to sit or lie down without pain, use the restroom, or obtain water from the fountain.”¹² The accounts of various inmates at Huron Valley detail similar, if not more disturbing, conditions for mentally ill inmates in administrative segregation.

With respect to the use of force, it is not always unconstitutional to use force against an inmate to enforce an order when the inmate’s compliance is necessary to avoid immediate risk of injury to the inmate or another individual. However, courts have held that “[e]ven when a prisoner’s conduct warrants some form of response, evolving norms of decency require prison officials to use techniques and procedures that are both humane and restrained.”¹³

With respect to seriously mentally ill inmates, who may be incapable of understanding or complying with an order, courts have held that the use of force against them, even force that may be permissible against a mentally competent individual, “crosses the line separating necessary force from brutality.”¹⁴ Simply put, “if the DOC fails to account for an inmate’s decompensation, with the result that he is gassed when he cannot control his actions due to mental illness, then the force no longer has a necessary penological purpose and becomes brutality.”¹⁵

Conclusion and Request for Action

We hope you will treat this situation very seriously, as it appears that the lives of women at Huron Valley who suffer from mental illness are at risk. We also wish to note that women who are inmates were brave enough to come forward and report these abuses to us despite their fear of retaliation for sharing what they witnessed with outside organizations. As you know, any retaliation against inmates for reporting abuse or misconduct is illegal and must not be tolerated.

Based on the grave situation at Huron Valley, we ask that you take immediate action with regard to the mistreatment of mentally ill inmates. Specifically, you must end the deprivation of life sustaining necessities such as water, food, and basic sanitation; the unwarranted or excessive use of force against inmates whose mental illness impairs their ability to understand and comply with prison rules and orders; and the use of solitary confinement for all inmates with serious mental illness or developmental disabilities. The use of water restrictions should be eliminated; if it is necessary to turn off the water in a prisoner’s cell, that prisoner should receive drinking water whenever she seeks it—and her water input should be carefully monitored, including by medical personnel. More generally, many correctional systems have—often after litigation—implemented safeguards to evaluate prisoners under consideration for segregated confinement, and provide alternatives for those who have serious mental illness or developmental

¹¹ 649 F.3d 428 (6th Cir. 2011).

¹² *Id.* at 434.


¹³ *Slakan v. Porter*, 737 F.2d 368, 372 (4th Cir. 1984).

¹⁴ *Thomas v. McNeil*, 3:04-CV-917-J-32JRK, 2009 WL 64616 at *23 (M.D. Fla. Jan. 9, 2009), *aff’d*, 614 F.3d 1288 (11th Cir. 2010); *see also Stewart v. Stalder*, No. 05–cv–0416–P, 2007 WL 184892, at *4 (Jan. 19, 2007).

¹⁵ *Thomas, supra*, at *23.

disabilities.¹⁶ We would like to work with you to develop the required protocols for Michigan, and ask that you contact Sofia Nelson at the ACLU to discuss that possibility. We also urge you to investigate the incidents and conditions described in this letter and make your findings and conclusions publicly available.

Sincerely,



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¹⁶ See *Austin v. Wilkinson*, No. 4:01CV071 (N.D. Ohio Apr. 5, 2002), at <http://www.clearinghouse.net/chDocs/public/PC-OH-0001-0001.pdf>; *Peoples v. Fischer*, No. 1:11-cv-02694-SAS (S.D.N.Y. Feb. 19, 2014), at <http://www.clearinghouse.net/chDocs/public/PC-NY-0062-0010.pdf>.