

THE BARBARA MCDOWELL
AND GERALD S. HARTMAN
FOUNDATION
SOCIAL JUSTICE THROUGH LEGAL ACTION

Annual Grant Report - September 2014

Organization Name: Florida Institutional Legal Services Project of Florida Legal Services (FILS)

Grant Date: September 2013

Case Summary:

The Florida Department of Corrections (FDOC) is locking its most severely mentally ill inmates in their cells for 23-24 hours per day. These inmates, despite having been identified by the FDOC as the sickest inmates in the state prison system, are housed in mental health units for treatment of their acute mental illnesses. Instead of receiving treatment in a therapeutic milieu, these inmates are being “managed” through the use of solitary confinement and restricted privileges with disastrous results.

FILS has consulted with both nationally-renowned mental health experts and corrections professionals from other states, all of whom agree that Florida’s system is one of the worst in the country. Instead of receiving treatment, mentally ill prisoners in FDOC are isolated and confined for extended periods of time. They also lose the last of their already severely restricted privileges, such as out-of-cell time or visitation, as punishment for behaviors resulting from their mental illness. The experts agree that when inmates are at their sickest, they need the most out-of-cell time, privileges, visitation with family, and treatment activities to help stabilize them. The FDOC’s approach is counterproductive, unconstitutional and has led to suicides and suspicious deaths on the inpatient units.

Case Progress Since Last Status Report:

Since our status report of March 2014, FILS has completed outreach to all ten of the prisons with inpatient units. FILS advocates have investigated prisons throughout the state, interviewing inmates to learn about their experiences on the inpatient units and reviewed thousands of pages of inpatient inmate records. FILS’ investigation has confirmed the policies and practices in these units are unconstitutional.

FILS retained a nationally renowned psychiatric expert with a background in prison mental health systems. She reviewed select records to confirm that the records and inmates FILS has identified are representative of the problems the expert believes should be addressed in the litigation.

After completing its pre-suit investigation, FILS determined that there are a few specific institutions that exemplify the problems with the FDOC’s inpatient unit policies and practices. FILS has been working with Florida’s federally-mandated protection and

advocacy organization, Disability Rights Florida, to draft a federal civil rights complaint alleging unconstitutional practices by the FDOC. This complaint is the first vehicle with which FILS will attack the unconstitutional statewide inpatient practices and policies. Disability Rights Florida will represent its clients and constituents, mentally ill people in the custody of the FDOC, as plaintiff in this action. As a plaintiff, Disability Rights Florida provides a number of strategic advantages: FILS will not have to jump through the hoops of having a class certified to get system-wide relief; FILS will not have to contend with the FDOC's attempts to moot out the claims of individual named plaintiffs in a class action; and FILS will not have to comply with the burden and delay of having named plaintiffs exhaust the FDOC grievance process which can be very difficult for mentally ill inmates to navigate.

Progress Anticipated in Next Six Months:

In the next six months, FILS anticipates filing its complaint in federal district court. The lawsuit will be filed against the Secretary of the FDOC and will demand injunctive relief remedying the unconstitutional treatment of mentally ill inmates in the inpatient units. FILS also anticipates including a claim against the FDOC, as an agency, for intentional discrimination against mentally ill inmates in violation of the Americans with Disabilities Act as a result of its policies and practices in the inpatient units.

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