ANNOTATED TOPICAL LIST OF CASES RELATING TO TREATMENT FOR PERSONS WITH MENTAL ILLNESS IN PRISONS AND JAILS*

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*There are scores of reported prison mental health cases. This list cannot be exhaustive. Although we have tried to check the history of all the cases, attorneys are cautioned to read cases carefully, including the case history, before citing to any case. In some complex cases, only those portions of the decision directly relating to mental health issues are annotated.

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Assessment, intake & screening (see also, "Mental health systems")

Inmates of Allegheny County Jail v. Wecht, 487 F.Supp. 638 (W.D.Pa. 1980) (**jail; intake**). Lack of mental health screening upon intake constitutes deliberate indifference.

Zuniga v. Hidalgo County, Nos. M-95-034 and M-94-086 (Settlement Agreement S.D. Tex.) (**detainees**). Settlement agreement establishing procedures to identify and provide treatment services to detainees with mental disabilities.

Inmates of Occoquan v. Barry, 717 F.Supp. 854 (D.D.C. 1989) (**prison; screening; segregation; staffing**). The court ordered the defendants to develop a system of mental health screening for incoming inmates. It also ordered that inmates with mental health problems should be placed in a separate housing unit or a hospital, but not in punitive or administrative segregation. In addition, it declared that staffing, including psychiatrists, psychologists, and support staff, was "woefully short."

Lucas v. Peters, 318 Ill. App. 3d 1, 741 N.E.2d 313 (2000) (**NGRI, pre-placement assessment**). Criminal defendants found NGRI and found eligible for placement in a non-secure facility sued to challenge their incarceration in a secure facility. Appellate Court found that insanity acquittees are statutorily (but not Constitutionally) entitled to individualized assessment prior to placement and to placement based on that assessment.

Gibson v. County of Washoe, Nevada, 290 F.3d 1175 (9th Cir. 2002), *cert. denied*, 124 S.Ct. 531 (2003) (**detainee w/ bi-polar disorder; death**). A detainee with bi-polar disorder died from a heart attack while in custody of the Sheriff. His widow sued under ' 1983, claiming due process violations. The trial court granted summary judgment for the defendants. The Court of Appeals remanded in part holding that fact issues existed regarding whether the county=s policy of delaying medical screening of combative detainees posed a substantial risk of harm to the detainee; whether the county was aware of the risk; and, whether the county=s policy of withholding medications created such a risk. Findings of no deliberate indifference and no excessive force were affirmed.

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Conditions of confinement: mentally ill prisoners

Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977) (**prison; class action**). New Hampshire prisoners filed class action challenging conditions of confinement including mental health care. Court found that the available treatment was constitutionally inadequate in that: (a) the number of personnel was insufficient to meet the emergency and on-going serious mental health care needs of the inmates; (b) due to the shortage of staff, the diagnostic services were inadequate; and (c) severely disturbed inmates were not separated from the general population.

Lovell v. Brennan, 566 F.Supp. 672 (D.Maine 1983), aff=d 728 F.2d 560 (1st Cir. 1984) (**restraint cells**). Class action challenge to overall conditions, including mental health care. As a result of improvements made during the course of the litigation, the parties agreed treatment was now adequate. However, the court held that sordid conditions in the restraint cells were unconstitutional.

Fisher v. Koehler, 692 F.Supp. 1519 (S.D.N.Y. 1988) (**prison; class action**). Class of inmates at New York City correctional institution brought suit challenging constitutionality of conditions of confinement, including mental health care. Court found that medical care, while better than at some institutions, was constitutionally inadequate.
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Morales Feliciano v. Hernandez Colon, 697 F.Supp. 37 (D.P.R. 1988) (**jail**). A conditions of confinement case in which the court also found the mental health care system to be unconstitutional. It ordered the defendants to remove all mentally ill prisoners from the jail and to transfer any future mentally ill prisoners within 48 hours.

Cortes-Quinones v. Jiminez-Nettleship, 842 F.2d 556 (1st Cir. 1988), *cert. denied*, 488 U.S. 823 (1988) (**murdered by other inmates; qualified immunity**). Prison officials were deliberately indifferent to health and safety needs of a psychiatrically disturbed prisoner who was killed and dismembered by other inmates in an horrendously overcrowded jail in Puerto Rico. A prior court order required the segregation of severely mentally ill prisoners. When "a supervisory official is placed on actual notice of a prisoner's need for physical protection or medical care, administrative negligence can rise to the level of deliberate indifference." Defendants were not entitled to qualified immunity because the court orders regarding psychiatric segregation were well known. The court rejects the argument that in a seriously deficient system, courts should hesitate to deny immunity to officials who are working for constructive change.

DeMallory v. Cullen, 855 F.2d 442 (7th Cir. 1988) (**Adjustment Center**). Allegations that prison officials knowingly housed mentally ill inmates with other inmates in the high-security "Adjustment Center," that these inmates soil their cells and surrounding areas by throwing food, human waste, and other debris, and that they set large numbers of fires resulting in the hospitalization of other inmates, stated Eighth Amendment violations.

Harris v. Thigpen, 941 F.2d 1495 (11th Cir. 1991) (**HIV).** HIV+ prisoners challenged treatment, including mental health care. The court ruled that in institutional level challenges to prison health care "deliberate indifference to inmates' health needs may be shown, for example, by proving that there are such systemic and gross deficiencies in staffing, facilities, equipment, or procedures that the inmate population is effectively denied access to adequate medical care." Although incidents of malpractice standing alone will not support a claim of eighth amendment violation, "[a] series of incidents closely related in time may disclose a pattern of conduct amounting to deliberate indifference. *** Repeated examples of delayed or denied medical care may indicate a deliberate indifference by prison authorities to the suffering that results." The court ruled that mental health care offered to HIV-positive inmates was constitutionally adequate even though at least one prison "is not ideally staffed and the quality of its mental health care perhaps is substandard." The court suggests that the plaintiffs' claims regarding deficiencies in education and counseling--i.e., help in "'cop[ing]' psychologically with the various aspects of a dread physical illness, while therapeutic, may be a more expansive view of mental health care than that contemplated by the eighth amendment."

Gates v. Deukmejian, 987 F.2d 1392 (9th Cir. 1993), *Gates v. Rowland*, 39 F.3d 1439 (9th Cir. 1994) & 60 F.3d 525 (9th Cir. 1995) (**HIV; consent decree**). Prison administrators agreed to a consent decree to improve treatment of prisoners who are HIV positive and reduce overcrowding at California Medical facility. The court appointed a special master appointed.

John A. and Mary B. v. Michael N. Castle, (D. Del. 1994) (**juveniles; consent decree**). This is a consent decree between the National Prison Project and the state of Delaware settling a class action lawsuit dealing with overall conditions at detention and correctional institutions for juveniles in that state. The agreement lays out detailed requirements for reforms in matters such as staffing levels, suicide prevention, medical care, mental health care, safety, and hygiene.

Madrid v. Gomez, 889 F.Supp. 1146 (N.D.Cal. 1995) (**supermax)**. Prisoners in super-maximum security

at Pelican Bay Prison filed a class action challenge to various aspects of their treatment and conditions of confinement, including inadequate mental health care. The court held that the mental health program was totally inadequate. Problems included: inadequate staffing; inadequate screening by people without proper training and background; custody staff not trained to identify mental illness; inadequate record-keeping: missing information, poorly maintained; delays in transfer for inpatient and outpatient care; no procedures for necessary involuntary psychiatric treatment; failure to involve mental health staff in housing decisions; no comprehensive suicide prevention program; no Quality Assurance program for mental health staff; grossly deficient treatment, especially in the Security Housing Unit, where there is a severe environment and limited psychiatric services; no inpatient or intensive outpatient treatments, plus delays in transfer to off-site care. In a subsequent, unreported order, the court enjoined the defendants from housing mentally ill prisoners in the security unit.

Laube v. Haley, 234 F.Supp.2d 1227 (M.D.Ala. 2002) (**female prisoners, classification, preliminary injunction**). This case is a broad based 8th Amendment challenge to the conditions for female inmates in Alabama prisons. Allegations include that prisoners with mental illness are erroneously classified for the general population, which creates a dangerous situation which has resulted in grave injury, and are denied medications and treatment. The court entered a preliminary injunction as to the unconstitutionally unsafe conditions at Tutweiler prison, but denied it at the other facilities. The court also preliminarily declared that unsafe conditions at Tutweiler violate the 8th Amendment and orders the defendants to take immediate affirmative steps to remedy the unsafe conditions.

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Consent decrees / settlement agreements

U.S. v. Michigan, 680 F.Supp. 928 (W.D.Mich. 1987) (**CRIPA; consent decree modified**). This long-lasting case was brought by the Department of Justice pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). The decision sets forth a number of orders issued by the court over the course of the litigation. With respect to mental health, the defendants submitted a plan for mental health care and simultaneously submitted a motion to modify it -- to provide for its implementation only "to the extent necessary to assure provision of constitutionally adequate mental health care to prisoners with serious mental illnesses." The court adopted the plan and made it part of the consent decree, but rejected the proposed modification because they would have effectively permitted the defendants to decide for themselves what they had to do. The court entered a supplementary order to remedy non-compliance with terms of the consent judgment covering psychotropic medication, seclusion and restraint, and identification and treatment of seriously mentally ill inmates in segregation units. With respect to suicide prevention, the court ruled that inmates being evaluated as suicide risks should not be left in the "suicide observation cell" for more than 24 hours before being examined and should be observed every 15 minutes. Subsequent decisions in the case are reported at *U.S. v. Michigan*, 940 F.2d 143 (6th Cir. 1991), and 18 F.3d 348, *cert. denied*, 115 S.Ct. 312 (1994).

Thompson v. Enomoto, 915 F.2d 1383 (9th Cir. 1990) (**consent decree**). The trial court retains jurisdiction over a 10-year old consent decree to improve conditions on San Quentin's death row and establish the rights of death-row inmates.

Goldsmith v. Dean, (No. 93-CV-383) (D.Vt.) (**prison; settlement agreement**). Class action challenge to adequacy of medical and mental health care in Vermont prison system. Parties entered into a "private agreement" to avoid the restrictions on consent decrees that are set forth in the Prison Litigation Reform Act of 1996.
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Taylor v. Wolff, 158 F.R.D. 675 (D.Nevada 1994) (**prisons; termination of consent decree**). The court dissolved a consent decree governing mental health treatment in Nevada prisons. Since plaintiffs did not allege any violations of the consent decree or constitutional standards, there was no need for ongoing court-supervised monitoring of conditions.

John A. and Mary B. v. Michael N. Castle, (D.Del. 1994) (**juveniles; settlement agreement**). This is a consent decree between the National Prison Project and the state of Delaware settling a class action lawsuit dealing with overall conditions at detention and correctional institutions for juveniles in that state. The agreement lays out detailed requirements for reforms in matters such as staffing levels, suicide prevention, medical care, mental health care, safety, and hygiene.

Dunn v. Voinovich, Case No. C1-93-0166 (S.D. Ohio 1995) (**prisons; special master**). Comprehensive consent decree entered in class action challenge to mental health care in the Ohio department of correction. The decree mandates: mental health services shall be provided "within the framework of a community health model" and in the "least restrictive available environment and by the least intrusive measures available"; a three-tier system of services (inpatient hospital beds for long-term care; residential treatment beds and crisis beds for short term care; and outpatient care for general population prisoners); hiring specified numbers of psychiatrists and other mental health professionals; procedures for housing assignments, disciplinary hearings, suicide prevention, ensuring program access to mentally ill prisoners, restraints, medication delivery, placement of mentally prisoners in control units, medical records, screening, staff training, and transfer of mentally ill prisoners between prisons. The court appointed a special master to monitor the implementation of the decree.

Austin v. Pennsylvania Dept. of Corrections, 876 F.Supp. 1437 (E.D.Pa. 1995) (**prisons; settlement agreement**). Class action by present and future inmates of facilities run by Pennsylvania Dept. of Corrections against the governor, Commissioner, and superintendents of thirteen facilities for declaratory and injunctive relief. The court approved a settlement decree establishing comprehensive improvements in mental health care: (1) The number of beds in Special Needs Units (SNUs) that provide on-site therapeutic bed space for inmates who are seriously mentally ill or who require short term commitment to a forensic facility will be nearly doubled, from 450 to 800. This will prevent them from having to be placed in Restricted Housing Units where treatment and other programs are far less accessible. (2) Inmates on psychotropic medications will be evaluated at least once every six months for tardive dyskinesia, and will receive medical treatment if this condition should occur. (3) Inmates who refuse to take psychotropic drugs will not be placed in administrative custody for that reason. (4) Improved programs in the SNUs. (5) Better quality control over mental health care: individualized treatment plans, specialized unit treatment requirements, and a tracking system with extensive mental health data, which allows for ongoing assessment of inmate needs. (6) A new position entitled "Chief of Psychiatric Services" to oversee and coordinate all mental health care in the prison system. (7) A Peer Review Committee for quality assurance in mental health care analogous to that utilized by major hospitals.

Hadix v. Johnson, 65 F.3d 532 (6th Cir. 1995) (**attorney fees**). Longstanding class action challenge to various conditions, including mental health. In 1985, the court approved a comprehensive settlement decree which required defendants to prepare a remedial mental health. The court in this decision discusses attorney fees accrued by out-of-town counsel who participated in monitoring compliance with the consent decree.

D.M. v. Terhune, 67 F.Supp. 2d 401 (D.N.J. 1999) (**prison; settlement agreement)**. The Court approves a settlement agreement which provides in great detail for enhanced mental health services. Areas of agreement include: reception evaluations, stabilization units (SU), residential treatment units (RTC),

transitional care units (TCU), outpatient care, inpatient care and new construction and renovation.

Williams v. McKeithen, Civ No. 71-98-B (MD La. 2000) (**settlement**). Settlement agreement includes detailed provisions for mental health care and treatment. Portions of the Agreement are reproduced in Fred Cohen, "The Mentally Disordered Inmate and the Law," 2003 Cumulative Supp. P. S-App.B-94.

Brad H. v. City of New York, 712 N.Y.S. 2d 336 (Sup. Ct. 2000), aff=d 716 N.Y.S.2d 852 (A.D. 1st Dept. 2000); 729 N.Y.S. 2d 348 (Sup. Ct. 2001) (**jails; discharge planning**). A significant decision on a state-law based right of inmates to receive discharge planning.

J.L. v. Miller, 174 Vt. 288, 817 A.2d 1 Vt., 2002 WL 31323830 (Vt. Supreme Ct. 2002) (**right to refuse medication; consent decree vacated**) The Vermont Supreme Court vacates the right to refuse treatment consent decree entered in 1985. The basis for the revocation is the enactment of Act 114 which provides new and different procedures for individuals, including some prisoners, facing involuntary medication.

Morales Feliciano v. Hernandez Colon, 300 F.Supp. 2d 321 (D.P.R. 2004) (**termination of decree denied**). The defendants= motion under the PLRA to terminate the consent decree is denied as the court finds that historical indifference to inmates= medical and mental heath needs and institutional failures continue to threaten the health and medical safety and wellbeing of the prisoner class, requiring continued operation of the decree and supervision by the court. [A conditions of confinement case in which the court also found the mental health care system to be unconstitutional. It ordered the defendants to remove all mentally ill prisoners from the jail and to transfer any future mentally ill prisoners within 48 hours.]

Ginest v. Board of County Commissioners of Carbon County, 333 F. Supp. 2d 1190 (D. Wyom. 2004) (**jail; contempt; denial of request to terminate decree**). County jail inmate class sought an order finding defendants in contempt of a consent decree governing inmates= medical care. Their motion for summary judgment was met by defendants= motion to terminate the consent decree. The court found that the Eight Amendment had been violated by inadequate medical care and record keeping and inadequate policies and staff training. Among other deficiencies were the lack of training in suicide prevention (and no written policy on suicide prevention) and that potentially suicidal inmates were often isolated physically and provided little or no mental health counseling. The motion to terminate the decree is denied.

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Death / wrongful death (see also "Suicide")

Young v. Martin, 172 F.Supp.2d 919 (E.D.Mich. 2001), affirmed 2002 WL 31379888 (6th Cir., unreported decision) (**respondeat superior, qualified immunity**). Denial of at least one prison administrator=s motion for summary judgment on qualified immunity grounds, permitting limited discovery from that administrator, where estate of state prisoner who died from complications of pre-existing medical conditions alleges that administrator adopted a policy discouraging necessary health care.

Melancon v. County of Los Angeles, 2002 WL 1824962 (Cal. App. 2d Dist. 2002) (**death**). Summary judgment granted for defendants in ' 1983 suit brought by prisoner's mother against the county after her mentally ill son died while in a forensic inpatient unit. Court finds no evidence of deliberate indifference

Alejo v. Dallas County, 2005 WL 701041 (N.D. Tex. 2005) (**detainee, denial of medications**). A pretrial detainee had her psychiatric medications confiscated when she was booked into the jail. Within two days
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of her booking, her behavior became very Abizarre.@ She did not see a psychiatrist for ten days. Five days later she died of caffeine poisoning after eating coffee grounds. Her family sued for deliberate indifference to her serious medical needs. The court granted summary judgment to the defendant doctor because the plaintiff was unable to prove, in the court=s view, that the doctor was aware of any substantial risk of harm to the detainee or that the doctor=s response (a standing order for PRN Halodol) was deliberately indifferent.

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Death row

Peterkin v. Jeffes, 855 F.2d 1021 (3d Cir. 1988) (**depression**). The court held that prison officials may be deliberately indifferent to mental health needs of death row prisoners if they "turn a blind eye" to their mental and emotional state. Depression can be a serious medical need mandating attention. The court rejected the defendants' claim that psychological disorders are the result of the severe nature of the sentences. However, the court found that plaintiffs' distrust of the mental health staff and the lack of privacy in the consultation did not render the level of treatment unconstitutional.

Thompson v. Enomoto, 915 F.2d 1383 (9th Cir. 1990) (**consent decree**). The trial court retains jurisdiction over a 10-year old consent decree to improve conditions on San Quentin's death row and establish the rights of death-row inmates.

Gates v. Cook, 376 F.3d 323 (5th Cir. 2004) (**conditions of confinement**). A death row conditions of confinement case in which the court says that Amental health needs are no less serious than physical needs.@

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Due process

Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963 (1974) (**due process; segregation; good-time credits**). In response to §1983 action by prisoners, could outline due process protections for disciplinary proceedings. The ruling noted that, while lawful incarceration necessarily deprives prisoners of certain rights and privileges, prisoners do not lose all of their civil rights – certain fundamental rights follow them, with appropriate limitations. Prison officials are vested with wide discretion and courts are reluctant to interfere with internal operations of prison discipline.

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Eighth Amendment

Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976) (**deliberate indifference to serious medical needs**). The 8th Amend is applicable to the states. It proscribes more than physically barbarous punishment. A "deliberate indifference" to prisoner's "serious medical needs" violates the 8th Amend.

Hutto v. Finney, 437 U.S. 678, 98 S. Ct. 2565, 57 L. Ed. 2d 522 (1978). (**isolation cells**). The 8th Amend. prohibits grossly disproportionate penalties. The length of time a prisoner is in isolation or other prison conditions may violate the Eighth Amend. An award of counsel fees against a state officials in their official capacities, as a result of their bad faith failure to cure constitutional violations identified in earlier court order, does not violate the 11th Amendment.
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Carlson v. Green, 446 U.S. 14, 100 S. Ct. 1468, 64 L. Ed. 2d 15 (1980). Prisoners denied medical attention by prison officials in violation of the 8th Amend. have a right of action against the United States under Federal Tort Claims Act as well as a right of action against the individuals under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971). Such an action survives the death of the prisoner, and punitive damages cab be recoved. A claim under Federal Tort Claims Act is not exclusive; a prisoner can sue under both.

City of Revere v. Massachusetts General Hospital, 463 U.S. 239, 103 S. Ct. 2979, 77 L. Ed. 2d 605 (1983) (**arrestee; medical care; due process).** Before conviction for a crime, the duty owed a defendant to provide medical care arises out of the Due Process Clause, not the 8th Amend. Due process requires the responsible government entity to provide medical care to persons injured while being apprehended by the police. How cost of the care is paid is not a federal question.

Ford v. Wainwright, 477 U.S. 399, 106 S. Ct. 2595, 91 L. Ed. 2d 335 (1986) (**insanity**). The 8th Amend. prohibits the execution of a person who is insane. Use of procedures for determining sanity that do not include prisoner in fact-finding process deny due process.

Wilson v. Seiter, 501 U.S. 294, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991) (**deliberte indiffrence standard**). The 8th Amend. applies to prison conditions only on proof of deliberate indifference on the part of prison officials.

Hudson v. McMillian, 503 U.S. 1, 112 S. Ct. 995, 117 L. Ed. 2d 156 (1992) (**use of force**). Eighth Amendment prohibition against excessive force is governed by the test in *Whitley v. Albers*, 475 U.S. 312, 106 S. Ct. 1078, 89 L. Ed. 2d 251 (1986). In the context of a prison disturbance, force can violate the 8th Amend. if applied maliciously and sadistically to cause harm but not if applied in a good faith effort to maintain or restore discipline. Inmate must show more than the *de minimus* injury but not significant injury. Question as to situation of an isolated assault.

Helling v. McKinney, 509 U.S. 25, 113 S. Ct. 2475, 125 L. Ed. 2d 22 (1993) (**exposure to smoke**). Allegation by prisoner, that exposure to second-hand cigarette smoke exposed him to an unreasonable risk of serious damage to his future health, states an 8th Amend. claim. Prisoner prove that his custodians acted with deliberate indifference that exposed him to unreasonable risk to his future health. He must prove that it is contrary to the current standard of decency for anyone to be so exposed and that the prison officials are deliberately indifferent to his plight. This requires more than scientific and statistical evidence of the likelihood of injury.

Farmer v. Brennan, 511 U.S. 825, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994) (**deliberate indifference**). Prison officials may be held liable in a *Bivens* action under the 8th Amend. for denying humane conditions only if they know that inmates face a substantial risk of serious harm and disregard that risk by failing to take reasonable actions to prevent it. That a prison official should have known but did not does not constitute "deliberate indifference."

Hope v. Pelzer, 536 U.S. 730, 122 S. Ct. 2508, 153 L. Ed. 2d 666 (2002) (**handcuffing to hitching post; qualified immunity**). The 8th Amend. clearly applies to the handcuffing of prisoners to a "hitching post" as a form of punishment. Judicial precedents interpreting the 8th Amend., together with U.S. Department of Justice advisories, sufficiently place prison guards on notice and qualified immunity is not available to them in actions brought under the Civil Rights Act.

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Injunctions

Sharp v. Weston, 233 F.3d 1166 (9th Cir. 2000) (**sexually dangerous post-incarceration civil detainees**). Affirming denial of state=s motion to dissolve comprehensive injunction regarding conditions and operations at Washington state facility for civil commitment of sexually violent predators.

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Isolation (see also "Segregation" and "Restraint")

Nelson v. Collins, 455 F.Supp. 727 (D.Md. 1978) (**class action**). Class action challenge to overall conditions of confinement, including mental health care. The court held that the confinement of mentally ill inmates in an isolation area without adequate opportunity for medical assistance constituted cruel and unusual punishment.

Nolley v. County of Erie, 776 F.Supp. 715 (W.D.N.Y. 1991) (**HIV; isolation**). Jail officials placed a red sticker on the records of the HIV-positive plaintiff and placed her in a unit for the mentally disturbed and suicidal. The court found plaintiff's segregation violated due process because it was so "remotely connected" to legitimate goals. Her right to procedural due process was also violated because her confinement was analogous to transfer to a mental hospital in that it involved a similar stigma. The court also held that confinement in segregation with mentally disturbed inmates was "not sufficiently traumatic to violate the Eighth Amendment." HIV status privacy finding distinguished in Petty v. Good, 2002 WL 31458240 (S.D.N.Y.) (not reported in F.Supp.) and other cases cited therein.

Perri v. Coughlin, 1998 WL 54233 (N.D.N.Y. 1998), 1999 WL 395374 (N.D.N.Y. 1999) **(long-term isolation; inhumane conditions**). Commissioners of corrections and mental health found liable in damages for failure to carry out their obligations to establish constitutionally acceptable mental health programs. The court found the defendants programmatic failures led to individual plaintiff=s confinement in inhumane conditions, which resulted in actionable physical and mental suffering while in long-term isolation. The plaintiff claimed he received constitutionally inadequate care for his obvious serious mental illness because Clinton prison did not have the capacity to provide such care and the defendants were deliberately indifferent to his mental health needs.

Arnold on behalf of H.B. v. Lewis, 803 F.Supp. 246 (D.Ariz. 1992) (**schizophrenia; lock down**). This case details a ten-year failure to provide adequate mental health care to a chronic paranoid schizophrenic incarcerated for aggravated assault. When plaintiff was not medicated, she became hostile and was placed in lock down for prolonged periods of time without treatment, which caused her to deteriorate. She spent periods of up to a year in a highly psychotic state in "the hole" before being transferred (numerous times) to the Arizona State Hospital. When treated at the hospital, plaintiff responded well and required no seclusion, lock down or restraints. After release from the hospital, she would be returned to the general population, staff would not ensure that she took medication and was soon after placed again in lock down. The court characterized plaintiff's treatment as "barbaric." It held that by placing plaintiff in lock down as an alternative to providing mental health treatment, defendants were deliberately indifferent to serious medical needs. Lock down should be used only as a last resort, and inmates should be allowed to see a psychiatrist each day in lock down, not once a month. Defendants used lock down as a substitute for treatment even when the psychiatrist recommended transfer to a hospital. [See "Mental health system" below]

Conway v. Henze, 2001 WL 747561 (7th Cir 2001) (unpublished) (**self-abusive**). In light of care that was

expended to him, facility was not deliberately indifferent to medical needs of prisoner who often was self-abusive and suicidal, even when in isolation.

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Involuntary medication/treatment

Mackey v. Procunier, 477 F.2d 877 (9th Cir. 1973) (**shock treatment, aversive treatment**). State prisoner who had consented to "shock treatment" complained that he was also administered a "breath-stopping and paralyzing fright drug" (succinylcholine) as part of a systematic program of aversive treatment for criminal offenders. The court reversed the lower court's dismissal of the complaint, stating that if plaintiff could prove his allegations it would "raise serious constitutional questions respecting cruel and unusual punishment or impermissible tinkering with the mental processes."

Knecht v. Gillman, 488 F.2d 1136 (8th Cir. 1973) (**apomorphine**). Inmates at the Iowa Security Medical Facility were given drugs (apomorphine) designed to induce vomiting when they violated a behavioral protocol. Experts testified that this was a "highly questionable technique" with a relatively low success rate. Although the court was concerned about the treatment's "painful and debilitating" aspects, it did not ban the technique, but rather established strict procedures governing its use, including that it be administered only to patients who gave informed consent. The key factor in determining acceptability: whether the technique was being used for treatment or punishment, with only the former being permissible.

Canterino v. Wilson, 546 F.Supp. 174 (W.D.Ky. 1982), aff'd, 875 F.2d 862 (6th Cir. 1989), *cert. denied*, 493 U.S. 991 (1989) (**female prisoners; behavior modification program applied to everyone**). The court held that the behavioral modification program used at a Kentucky correctional institution for women violated due process. The program regulated virtually all aspects of the lives of the inmates, including visitation, phone calls, receipt of packages, bedtime, personal belongings, clothing, cosmetics, television viewing, recreation, bedding, etc. The court refused to defer to the mental health professionals in charge, noting that "courts are well equipped to determine if a system is punitive." It rejected the state's argument that the program promoted security, order, and discipline. It held that although the program could be appropriately applied to some individuals, due process requires an individualized showing that it is necessary.

U.S. v. Jones, 811 F.2d 444 (8th Cir. 1987) (**transfer to prison hospital**). Plaintiff was transferred to federal prison hospital for a psychiatric evaluation. The court ruled that he was not entitled to due process under *Vitek v. Jones* because the transfer was for evaluation and assessment rather than treatment.

Green v. Baron, 879 F.2d 305 (8th Cir. 1989) (**incompetent detainee; behavior modification program**). Behavioral modification program for incompetent pretrial detainees based on deprivation and reward framework is constitutional. Plaintiff was disruptive and placed in an isolation cell with no mattress or blanket and without any clothing but his underwear. He was required to "earn" necessities, comforts, and privileges by proper behavior. The court held that stabilizing plaintiff's behavior to make him competent to stand trial is a legitimate state objective. The treatment program was not used until all other treatment efforts failed, was designed and supervised by medical personnel, and the plaintiff was not endangered. Discomfort alone does not violate the Constitution.

U.S. v. Watson, 893 F.2d 970 (8th Cir. 1990) (**involuntary medication**). A pre-*Washington v. Harper* decision concerning the rights of federal prisoners to refuse psychotropic medication. The court remanded for a determination of whether the prisoner can function adequately (i.e. without posing a
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danger to self or others) without medication. The court stated: "If the government shows it cannot control a mentally ill prisoner in the general population, due process does not require it to provide the least restrictive modality. *** Rather, we hold that psychotropic drugs may be constitutionally administered to a mentally ill federal prisoner whenever, in the exercise of professional judgment, such an action is deemed necessary to remove that prisoner from seclusion and to prevent the prisoner from endangering himself or others."

Washington v. Harper, 494 U.S.210 (1990) (**anti-psychotic drugs)**. Prisoners have a liberty interest in avoiding the involuntary administration of anti-psychotic drugs, but that right may be overcome if medical personnel find the prisoner suffers from a mental disorder which is likely to cause harm if not treated and as long as the medication is prescribed and reviewed by psychiatrists. In upholding these substantive standards, the Court cites the special characteristics of the prison environment and prison officials' interest in and duty to protect the safety of prison personnel and other prisoners. The Court assumes that "the fact that the medication must first be prescribed by a psychiatrist, and then approved by a reviewing psychiatrist, ensures that the treatment in question will be ordered only if it is in the prisoner's medical interests, given the legitimate needs of his institutional confinement." As a procedural matter, the prisoner need not be found incompetent in a judicial proceeding and court authorization to medicate need not be obtained. A psychiatrist's decision is sufficient as long as it is reviewed by medical professionals who are not involved in the prisoner's current treatment or diagnosis.

Bee v. Graves, 910 F.2d 686 (10th Cir. 1990) (**detainee; Thorazine)**. Plaintiff was involuntarily medicated with Thorazine while a pretrial detainee. The court upheld a jury verdict in his favor on grounds that it was clearly established in 1980, prior to Washington v. Harper, that a pretrial detainee had the right to refuse antipsychotic medication.

Maul v. Constan, 928 F.2d 784 (7th Cir. 1991) (**psychotropics**). Prisoner alleged constitutional violations based on the forced administration of psychotropic medications. District court awarded $7,500 in damages. Court of Appeals remands for clarification on basis for damages. On remand, the court awarded $22,500 in compensatory damages. On appeal after remand, the 7th Circuit reversed the award and entered an award of $1.00 in nominal damages due to the plaintiff=s failure to show actual harm. 983 F.2d 1072 (7th Cir. 1992) (Table), unpublished opinion available at 1992 WL 382375.

McArdle v. Tronetti, 769 F.Supp. 188 (W.D.Pa. 1991), aff'd 961 F.2d 1083 (3rd Cir. 1992) (**psychotropic; misdiagnosis**). The plaintiff was committed after he refused to take psychotropic medication prescribed by an *osteopath* at the prison who had improperly diagnosed him as a schizophrenic. The court ruled that plaintiff may have an Eighth Amendment claim for "grossly negligent and extremely deficient diagnostic procedures and treatment prescriptions," but the complaint did not seek relief under the Eighth Amendment.

Breads v. Moehrle, 781 F.Supp. 953 (W.D.N.Y. 1991) (**psychotropic**). Defendants were not entitled to summary judgment on plaintiff's claim that he was subjected to involuntary psychotropic medication while in jail. An affidavit, alleging that the plaintiff was a "disciplinary nightmare" and the drugs were administered by a "qualified medical aide following the orders of the facility's psychiatrist," was insufficient. *Washington v. Harper*, 494 U.S. 210 (1990) requires the prisoner have "a serious mental illness" and be "dangerous to himself or others," and that the treatment be "in the inmate's medical interest."

Cochran v. Dysart, 965 F.2d 649 (8th Cir. 1992) (**psychotropic**). Plaintiff was a federal prisoner who challenged his forced medication with psychotropic drugs. The court held that *Washington v. Harper*,

110 S. Ct. 1028 (1990) does not support forced medication in order to effectuate a transfer to a less secure setting, participation in more programs, improved grip on reality, or to make the inmate less agitated.

Washington v. Silber, 805 F.Supp. 379 (W.D.Va. 1992), aff'd 993 F.2d 1541 (4th Cir. 1993) (**anti-psychotic**). Plaintiff challenged the involuntary administration of an anti-psychotic drug to him at a mental hospital for prisoners to which he had been committed. In making the commitment order, the court found that plaintiff was incompetent and an imminent danger to himself. The court stated that "due process is satisfied if the decision to medicate is based on professional judgment." Under *Washington v. Harper*, a state may "treat a prison inmate who has a serious mental illness with anti-psychotic drugs against his will, if the inmate is dangerous to himself or others and the treatment is in the inmate's medical interest." Since these findings had already been made at plaintiff's commitment hearing, the court held he was entitled to no additional process.

Woodland v. Angus, 820 F.Supp. 1497 (D.Utah 1993) (**incompetent to stand trial**). Plaintiff was committed as incompetent to stand trial and the state court directed the mental hospital to give him whatever treatment, including drugs, that it deemed necessary. Plaintiff refused medications. The hospital review committee found that the plaintiff did not pose a threat of serious harm, but approved the forcible administration of medication to render him competent to stand trial. The court granted summary judgment for the plaintiff using the principles set forth in *Riggins v. Nevada*, 112 S.Ct. 1810 (1992), as opposed to *Washington v. Harper*, 494 U.S. 210 (1990). Forcible medication in these circumstances must be necessary to accomplish an essential state policy. There must be an "overriding justification and a determination of medical appropriateness." Even a convicted prisoner would have to present a danger to himself or others to be medicated under *Harper*.

Sullivan v. Flannigan, 8 F.3rd 591 (7th Cir. 1993) *cert. denied*, 511 U.S. 1007 (1994) (**Haldol)**. The plaintiff had a violent history and had been forcibly medicated with Haldol for many years. He sought to have the drug discontinued in order to demonstrate that he could behave without it. His behavior had been excellent for years. The court rejected his claim because he had received the periodic reviews and administrative appeals (to prison medical authorities) required by Washington v. Harper, 494 U.S. 210 (1990).

Hogan v. Carter, 70 F.3d 112 (4th Cir. 1995, unreported decision); 1995 WL 674574 (**Thorazine; 4-point restraints**). Plaintiff filed suit against prison doctor who had authorized forcible administration of Thorazine and four point restraints over the telephone. The Court held the defendant was not entitled to qualified immunity because under *Washington v. Harper*, 494 U.S. 210 (1990), the law was clear that forcible administration of antipsychotic drugs without due process was violative of constitutional rights. In addition, there was a dispute whether a mental health emergency existed that would have warranted immediate administration of medication.

US v. Humphreys, 148 F.Supp.2d 949 (D. S.D. 2001) (**incompetent federal prisoner).** Forcible medication hearing vacated and remanded for new hearing, where initial hearing failed to satisfy due process requirements.

J.L. v. Miller, 174 Vt. 288, 817 A.2d 1 (Vt. 2002) (**right to refuse medication**) The Vermont Supreme Court vacates the right to refuse treatment consent decree entered in 1985. The basis for the revocation is the enactment of Act 114 which provides new and different procedures for individuals, including some prisoners, facing involuntary medication.

Dancy v. Gee, 116 Fed. Supp. 2d 652, aff=d 2002 WL 31682228 (4th Cir. 2002) (per curium) (**anti-**

psychotic medication). Forcible medication of antipsychotic medications without a state inmate's consent did not violate his due process rights since it was administered in an emergency situation where there was a threat of danger to the inmate or to others.

Nusbaum v. Terrangi, 210 F.Supp. 2d 784 (E.D.Va. 2002) (**mandatory therapy with religious overtones; good time credits**). Prison officials violated Establishment Clause when they limited good time credits only to inmates who attended a ATherapeutic Community Program.@ The group program impliedly espoused religion.

Riggins v. Nevada, 504 U.S. 127, 112 S. Ct. 1810, 118 L. Ed. 2d 479 (1992) (**competency to stand trial)**. Absent a finding of necessity and medical appropriateness, the compelled use of anti-psychotic drugs on a defendant violated his constitutionally protected trial rights by possibly altering his appearance, content of his testimony and his communication with counsel. Question of right to have jury see him in non-drugged state not raised.

U.S. v. Gomes, 289 F. 3d 71 (2d Cir. 2002) (**competency to stand trial**). The Court established a four-part test to determine when a non-dangerous defendant may be forcibly medicated to render him competent to stand trial. By clear and convincing evidence, the government must show: (1) the treatment is medically appropriate; (2) it is necessary to restore trial competency; (3) the defendant can be fairly tried while medicated; and (4) trying the defendant will serve an essential governmental interest.

*U.S. v. Sell***,** 539 U.S. 166, 123 S.Ct. 2174 (2003) **(competency to stand trial)**. Although the criminal defendant does not pose a danger to himself or others, the Fifth Amendment Due Process Clause permits the Government involuntarily to administer antipsychotic drugs to a mentally ill defendant facing serious criminal charges in order to render that defendant competent to stand trial, but only if the treatment is medically appropriate, is substantially unlikely to have side effects that may undermine the fairness of the trial, and, taking account of less intrusive alternatives, is necessary significantly to further important governmental trial-related interests.

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Medical needs of individual inmate.

Johnson v. Harris, 479 F.Supp. 333 (S.D.N.Y. 1979) **(diabetic diet**). A federal prisoner brought a civil rights action contending prison authorities, despite their knowledge that he was a brittle diabetic, refused to accord him necessary medical and dietetic care. The Court held that the prisoner's evidence established an Eighth Amendment infringement and that he was entitled to injunctive relief.

Murphy v. Lane, 833 F.2d 106 (7th Cir. 1987) (**suicidal tendencies; delayed treatment**). Plaintiff was suicidal and under psychiatric care. He was transferred to an institution unequipped to provide psychiatric care. The psychiatrist at the receiving institution had him sent back; meanwhile, he spent four days in segregation. Defendants' acts, while probably "irresponsible" and characterized by "lack of good judgment," did not amount to deliberate indifference, since plaintiff received some psychiatric care at both prisons and got prompt medical treatment when he tried to kill himself. Plaintiff failed to establish a "pattern of repeated negligent acts" or "systematic and gross deficiencies in staffing, facilities, equipment or procedure."

U.S. v. Kidder, 869 F.2d 1328 (9th Cir. 1989) (**PTSD**). Evidence that a criminal defendant suffered from post-traumatic stress disorder did not render his prison sentence unconstitutional unless he showed that "no constitutionally acceptable treatment can be provided while he is imprisoned." A showing that in-
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patient psychiatric care would be the best treatment did not satisfy this test, nor did an expert affidavit opining that no adequate treatment programs existed in the federal prisons.

Lay v. Norris, 876 F.2d 104 (6th Cir. 1989),1989 WL 62498 (unpublished opinion) (**depression**). Plaintiff suffered from depression. He was examined by several mental health professionals, including a psychiatrist and at least three psychologists, all of whom recommended his transfer to a prison where he could receive regular mental health treatment. The prison offered thirty hours of mental health treatment per month, divided among 814 inmates but, because plaintiff was in segregation, he could request to see a psychologist at any time, but not for very long. Plaintiff also received regular medication. The court held that it was "abundantly clear" that plaintiff was receiving inadequate treatment for his mental health needs because "maintaining him on drugs is not providing treatment." At best, plaintiff received psychological and psychiatric "attention," but that is a far cry from the therapy and counseling.

Boston v. LaFayette County, Miss., 743 F.Supp. 462 (N.D.Miss. 1990) (**jail; diabetes; death**). The decedent was a diagnosed paranoid schizophrenic who had developed diabetes and endomitritis during a recent pregnancy. She was committed by county officials and placed in jail pending further orders. Jail personnel did nothing to evaluate her physical condition despite her obvious sickness and their knowledge that she was taking insulin. She died of heart failure caused by blood clots. The court stated that "[d]ue to the disorientation and communicative disabilities often suffered by the mentally ill, medical care which is reasonable for psychologically sound individuals might not reasonably suffice for those who suffer from mental illness." The county's policy was not unconstitutional because it required physical and mental examinations of mentally ill detainees within 24 hours, regular observations, and arrangements for needed care. It was the failure to follow the policy that caused the death.

Peterson v. Roth, 1992 WL 357697 (E.D.Pa., unreported opinion) (**nightmares; denial of care due to staff vacancy**). Plaintiff suffered nightmares and sleeplessness. The failure to address his complaints of psychological symptoms for seven days after the departure of the person in charge of providing the needed services does not give rise to a colorable constitutional claim. Prison authorities should have a reasonable time to secure substitute personnel or otherwise provide appropriate services.

Arnold on behalf of H.B. v. Lewis, 803 F.Supp. 246 (D.Ariz. 1992) (**schizophrenia; lock down**). This case details a ten-year failure to provide adequate mental health care to a chronic paranoid schizophrenic incarcerated for aggravated assault. When plaintiff was not medicated, she became hostile and was placed in lock down for prolonged periods of time without treatment, which caused her to deteriorate. She spent periods of up to a year in a highly psychotic state in "the hole" before being transferred (numerous times) to the Arizona State Hospital. When treated at the hospital, plaintiff responded well and required no seclusion, lock down or restraints. After release from the hospital, she would be returned to the general population, staff would not ensure that she took medication and was soon after placed again in lock down. The court characterized plaintiff's treatment as "barbaric." It held that by placing plaintiff in lock down as an alternative to providing mental health treatment, defendants were deliberately indifferent to serious medical needs. Lock down should be used only as a last resort, and inmates should be allowed to see a psychiatrist each day in lock down, not once a month. Defendants used lock down as a substitute for treatment even when the psychiatrist recommended transfer to a hospital. The court found the mental health system at the prison to be inadequate: it was grossly understaffed, had no screening system to identify and evaluate mentally ill inmates, past psychiatric records were not obtained, there was no adequate psychiatric referral system, there was no system to ensure that patients take medication, and non-medical staff were able to override medical decisions of psychiatric staff. The court ordered the defendants to: (1) keep plaintiff at the DOC's mental health facility; (2) place her in lock down only if recommended by a psychiatrist, and only when she presented an immediate danger to herself or others;

and (3) provide monitoring and follow-up consistent with professional standards.

McGulkin v. Smith, 974 F.2d 1050 (9th Cir. 1992), overruled on other grounds, *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) ("**serious medical need"**). The court defines a serious medical need as one which a reasonable doctor or patient would find important and worthy of comment or treatment; the presence of a medical condition that significantly affects an individual's daily activities; or the existence of chronic and substantial pain.

Rodney v. Romano, 814 F.Supp. 311 (E.D.N.C. 1993) (**hypnotism**). Refusing to permit pretrial detainee to be seen by a clinical psychologist with expertise in hypnotism did not violate due process.

Cameron v. Tomes, 990 F.2d 14 (1st Cir. 1993) (**wheelchair accessible housing**). Although the court of appeals specifically declined to adopt the district court's determination that there is a constitutional right to minimally adequate treatment for mental disorders, it nevertheless sustained most of the district court orders regarding such things as medical treatment in an outside hospital and wheelchair accessible housing, reasoning that plaintiff has the right not to have his mental condition affirmatively worsened.

Rivera v. Frucht, 1994 WL 116025 (S.D.N.Y., unreported decision) (**psychiatric case**). Plaintiff challenged the failure to provide him with adequate psychiatric care. The court dismissed this claim because the prison psychologist had evaluated plaintiff and regularly checked on his condition. Further, plaintiff had frequently refused treatment.

Doty v. County of Lassen, 37 F.3d 540 (9th Cir. 1994) (**stress-related ailments**). Plaintiff twice requested mental health care while she was suffering from nausea, shakes, headache and depressed appetite due to unresolved family situational stress and anxiety. The court held that such mild stress-related ailments are "routine discomfort" and not a "serious" medical need. In addition, it reversed the district court order that the prison establish a fixed time to respond to requests for mental health care because an isolated failure to reply to a prisoner's request does not establish an unconstitutional health care system.

Hardin v. Hayes, 52 F.3rd 934 (11th Cir. 1995) (**asphyxiation; delay in care**). A severely disturbed prisoner died from asphyxiation after swallowing a bar of soap. There had been a delay of one and one-half days in obtaining treatment. Citing Farmer v. Brennan, 114 S.Ct. 1970 (1994), the court ruled that plaintiff "needed to demonstrate that the relevant jail personnel acted with subjective recklessness, i.e. that their conduct was very unreasonable in light of a known risk that delay in mental health treatment would cause mental anguish."

Sanchez v. Shillinger, 1995 WL 321953 (10th Cir. 1995) (unreported decision) (**mental health treatment**). The court rejected plaintiff's claim that: (1) defendants failed to provide him with mental health treatment as ordered by the judge as part of his sentence; and (2) that prison lacked facilities and staff to treat his mental health needs.

Ratliff v. Cohn, 693 N.E.2d 530 (Ind. 1998) (**juvenile in adult prison; inadequate therapy**). Female plaintiff was a 14 year old juvenile offender charged as a adult, convicted, and placed in an adult prison. She failed in her challenge to the Constitutionality of such placement. She also claimed that she had been abused all of her life, and that the rehabilitative treatment (group therapy) she received at the prison was inadequate. The court found that she had sufficiently alleged deliberate indifference to her serious medical needs (including for mental health treatment) for 8th Amendment purposes, and that she was denied conditions of reasonable care and safety to state a claim for violation of due process.

Pennsylvania Dept. of Corrections v. Yeskey, 524 U.S. 206 (1998) (**hypertension; admission to boot camp program; ADA**). State prisoner denied admission to prison boot camp program due to history of hypertension sued state DOC and several officials under the ADA. The District Court dismissed for failure to state a claim. The Court of Appeals for the Third Circuit reversed and remanded. The Supreme Court held that Title II of the ADA, prohibiting "public entity" from discriminating against "qualified individual with a disability" on account of that individual's disability, applied to inmates in state prisons. sovereign immunity issues not raised or addressed).

Galvin v. Gibbs, 2000 WL 1520231 (D. Or.) (unpublished) (**PTSD; diabetes; Klonopin**). A Vietnam veteran with PTSD and Type II Diabetes, sued *pro se* under the ADA and ' 504 alleging defendant prison officials failed to provide him, among other things, with medication (Klonopin) and mental health treatment. The court granted summary judgment on the ADA and ' 504 claims because of the plaintiff=s failure to allege any discrimination. Treating the claims as being brought under '1983, the court found no deliberate indifference even if the medical needs were serious.

King v. Frank, 328 F.Supp. 2d 940 (W.D.Wisc. 2004) (**denial of adequate MH care & psychotropic).** The prisoner survives a motion to dismiss on his claims that inadequate treatment of his mental condition and denial of medication were Eighth Amendment violations. Court describes the claims, which include inadequate mental health staff, as meeting the bare minimum necessary to state a claim.

Davidson v. Texas. Dept. of Correctional Justice, Institutional Div., 2004 WL 542206 (5th Cir. 2004) **(hepatitis)**. Officials refusal to treat mentally ill inmate=s hepatitis B and C with interferon did not violate the Eight Amendment or the ADA inasmuch as the denial was consistent with generally accepted medical standards and there was no evidence the hepatitis was serious enough to mandate such extraordinary medical intervention. There was evidence that interferon therapy was contraindicated for people with severe depression or other neuro-psychiatric disorders. ADA claim is dismissed because inmate had not alleged or shown that he was adversely treated solely because of his mental illness.

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Medications: denial / discontinuation of / inadequate:

Partee v. Lane, 528 F.Supp. 1254 (N.D.Ill. 1981) (**depression**). Plaintiff alleged he informed defendant of his depression and anxiety, but that defendant denied him access to the prison's psychologist. The court held that plaintiff's conclusory statement that he was depressed "hardly indicates a "serious medical need" such that defendant's denial of access to psychological care might indicate deliberate indifference." Further, "no doubt most, if not all, prisoners are depressed some if not all of the time. In an ideal prison, psychological care would be available to all prisoners who seek it. But, absent some objective indication that plaintiff's depression went beyond what is probably the norm for prisoners at Stateville, we cannot conclude that plaintiff's statements that he was depressed were sufficient to make his condition so serious that even a lay person would recognize the necessity of a (psychologist's) attention."

Thomas v. Kipperman, 846 F.2d 1009 (5th Cir. 1988) (**jail**). Plaintiff was a pretrial detainee denied psychiatric medication for six months. The court held that the district court improperly used the Eighth Amendment "deliberate indifference" standard instead of the due process clause. Under the due process, the test is whether the denial was "reasonably related to a legitimate government objective." The court remanded for determination of (1) whether defendants were aware of the need for medication and refused to prescribe it, and (2) whether defendants had failed to provide plaintiff with an adequate diagnostic evaluation.
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Waldrop v. Evans, 871 F.2d 1030 (11th Cir. 1989) (**abrupt discontinuation of psychiatric medications**). The mentally ill plaintiff in this case had his medications abruptly discontinued by a psychiatrist upon admission to the prison system. It was not restored even when the plaintiff began suffering from nightmares, insomnia and nausea. Plaintiff eventually gouged out his left eye, castrated himself, and blinded his right eye. The court held that the medical doctor's failure to notify the treating psychiatrist of the plaintiff's suicidal gesture, or to take any other action besides suturing the wound, because he thought it was an "attention-getting device," raised a factual issue precluding summary judgment. "Smith was not a psychiatrist and was therefore unable to evaluate the significance of [plaintiff's] act." The court held: "Grossly incompetent or inadequate care can constitute deliberate indifference, . . . as can a doctor's decision to take an easier and less efficacious course of treatment…. Failure to respond to a known medical problem can also constitute deliberate indifference…. Mere medical malpractice, however, does not constitute deliberate indifference. *** Nor does a simple difference in medical opinion."

Lowe v. Board of Commissioners, County of Dauphin, 750 F.Supp. 697 (M.D.Pa. 1990) (**confiscating on admission**). Policy of taking prescription drugs from incoming prisoners may violate the 8th Amendment.

Greason v. Kemp, 891 F.2d 829 (11th Cir. 1990) (**suicide**, **anti-depressants**). The court denies qualified immunity to a prison psychiatrist who abruptly discontinued decedent's anti-depressants based on a single interview of a few minutes' length and without reviewing his clinical file. It held that psychiatric care that is "grossly inadequate" by professional standards is actionable. In addition, the failure of a "mental health team leader" to monitor the decedent after being warned by his parents and other inmates that he had tried to commit suicide could constitute deliberate indifference. The clinical director of the prison could be found deliberately indifferent based on evidence that the psychiatric staff was "clearly inadequate," and that he had failed to act on his subordinates' complaints. The director of mental health for the state prison system could be found deliberately indifferent because he was "aware of," but did nothing to remedy, conditions that could "lead to grossly inadequate mental health care," e.g., lack of mental health treatment plans, lack of policies and procedures for suicide prevention, and inadequate psychiatric staff. The prison warden could also be found deliberately indifferent because he was "responsible for ensuring that all services . . . were properly provided" and he knew or should have known about the inadequacy of psychiatric staffing.

Smith v. Jenkins, 919 F.2d 90 (8th Cir. 1990) (**Sinequan; Prolixin**). Prior to his incarceration, the plaintiff was prescribed Sinequan and Prolixin. The prison doctor decided to terminate the medication, claiming that in his professional judgment it was not necessary. The district court granted summary judgment to the doctor because he had examined the plaintiff on four separate occasions. The appeals court reversed, stating that "[g]rossly incompetent or inadequate care can constitute deliberate indifference, as can a doctor's decision to take an easier and less efficacious course of treatment." Here, the "record contains virtually no evidence of the appropriate standard of care" nor any indications whether the doctor's actions complied with those standards. In addition, the record fails to disclose whether the defendant was "qualified to diagnose and treat mental illness" since he did not claim to have any "specialized training in the field of mental health."

Pedraza v. Meyer, 919 F.2d 317 (5th Cir. 1990) (**drug withdrawal**). The plaintiff's claim that he was denied medical treatment for four days during which he was suffering drug withdrawal symptoms was not frivolous in that defendant's actions could be found to constitute deliberate indifference.

Ervin v. Busby, 992 F.2d 147 (8th Cir. 1993), *cert. denied*, 114 S.Ct. 220 (1993) (**detainee; anti-depressants**). Court of Appeals affirms dismissal of action brought by pretrial detainee who did not receive his prescribed anti-depressant until approximately a month after his transfer from one jail to another. He claimed that the abrupt withdrawal of medication caused him to be agitated and have nightmares. The court held that county officials may have been negligent in misplacing the medication, and in delaying getting the prescription filled, but that negligence does not support a claim under the Eighth amendment.

Burt v. Volkert, 1995 WL 155037 (N.D.Ill. 1995) (not reported in F.Supp.) (**depression**). Plaintiff informed a correctional officer at the jail that he was taking a prescription medicine for the treatment of depression. Plaintiff's brother brought a bottle of the medication to the jail, but jail personnel would not dispense it. Plaintiff repeatedly requested psychiatric attention and complained of nightmares, nausea, and anxiety. Finally, his condition became so severe that he was sent to an outside clinic on a priority basis. Jail policies to ensure no interruption in the medication of a newly admitted inmate was not followed. The court held that there was a material dispute of fact whether plaintiff was suffering from a serious medical need of which defendants were aware. Despite this, it granted summary judgment to defendants because their conduct was "reasonable" in that plaintiff was promptly examined by medical staff when he complained and some efforts were made to obtain the medication. While other routes may have been more effective, defendants were not deliberately indifferent.

Cosner v. Lowe, 1995 WL 775303 (D. Kan. 1995) (not reported in F.Supp.) (**PTSD**). Plaintiff was confined at the army prison at Fort Leavenworth and suffered from Post Traumatic Stress Disorder. Defendants afforded him a number of stress management courses. He also received psychiatric treatment, including drug therapy. The court held that his dissatisfaction with his drug therapy will not support a claim under the Eighth Amendment.

Hetzel v. Swartz, 909 F.Supp. 261 (M.D.Pa. 1995) (**terminal illness; denial of counseling**). Plaintiff claimed that prison officials acted unlawfully by refusing to provide counseling although he suffers from a terminal disease. The court stated that "when inmates with serious mental ills are effectively prevented from being diagnosed and treated by qualified professionals, the system of care does not meet constitutional requirements."

Vaughan v. Lacey, 49 F.3d 1344 (8th Cir. 1995) (**depression; federal prison**). Upon transfer to federal prison camp, the plaintiff was denied the medications previously prescribed for his depression. Although he was evaluated by the camp physician, there was a three month delay before he was seen by the prison psychiatrist. The court held that defendants had no duty to give the prisoner his original prescription without consulting prison doctors. This was a disagreement as to the proper course of treatment, which, without more, is not actionable under the Eighth Amendment. The psychiatrist who was responsible for the delay in scheduling the evaluation was not a defendant.

Young v. Augusta, 59 F.3d 1160 (11th Cir. 1995) (**jail; manic depression**). Manic-depressive woman sued for deliberate indifference to her serious medical needs. She was jailed for destruction of city property (after she set her underwear and shoes on fire in a holding cell), despite her father's request that she serve her time in a hospital. While jailed, she told a guard she was hearing voices. She was placed in an isolation cell, and after attempting to flood it, was stripped naked and chained to the metal bed, where she couldn't reach the toilet. She was maced several times, and not taken to the mental hospital until four days later. She was also physically assaulted by a prison guard during another similar stint in the isolation cell. The court reversed grant of summary judgment to defendants because plaintiff raised genuine issues of material fact about whether her treatment was unduly delayed, whether her psychotropic

drugs were dispensed by jail employees as directed, and whether she suffered cruel and unusual punishment from the beating. The city did not sufficiently show that it didn't cause constitutional deprivations by its custom of inadequate selection or training of jail employees, of which it should have been aware.

Mahan v. Plymouth County House of Corrections, 64 F.3d 14 (1st Cir. 1995) (**jail; depression & seizures**). Plaintiff was arrested and placed in jail without being given prescription medication that he was taking for his depression and seizures. Although he repeatedly requested the medication, jailers would not give it to him until after they went through time-consuming prison approval procedures. During this time, plaintiff suffered severe depression and anxiety attacks. The court affirmed summary judgment for the defendants on grounds that, under *Farmer v. Brennan,* 114 S.Ct. 1970 (1994), officers are only deliberately indifferent if they are subjectively aware of a condition requiring their intervention. Defendants knew plaintiff wanted his prescribed medication, but did not know of his serious symptoms. The court observes that the prison's inflexible procedures for providing a newly admitted detainee with his prescribed medication, coupled with limited "medical officer" hours, "could well have resulted in serious harm."

Steele v. Shah, 87 F.3d 1266 (11th Cir. 1996) **(denial of medications).** Inmate's claim that prison psychiatrist violated his Eighth Amendment rights by discontinuing his medication survived summary judgment motion. Inmate was originally in a jail where he was diagnosed with "Adjustment Disorder with Anxious Mood," prescribed psychotropic drugs, and considered a suicide risk. He was then transferred to a different jail. The psychiatrist at this jail discontinued his medication without a thorough evaluation and without reviewing his records. The psychiatrist also disregarded follow-up letters from the transferring facility regarding the on-going suicide risk that this inmate posed.

Ledford v. Sullivan, 105 F.3d 354 (7th Cir. 1997) **(Zoloft)**. Inmate claimed his rights under the Eighth and Fourteenth Amendments were violated because prison officials confiscated his prescription for Zoloft with which he entered the prison, and they failed to provide him with a new prescription for Zoloft until eleven days later. A jury returned a verdict of no deliberate indifference. On appeal, the court held that inmate did not have a constitutionally-protected property interest in his medication and, therefore, he did not have a claim for a Fourteenth Amendment violation. Inmate's claim that District Court abused its discretion by failing to appoint an independent expert to testify at trial also was unsuccessful. Court determined that, "[g]iven the particular factual issues in this case, determining deliberate indifference was not so complicated that an expert was required to establish Ledford's case."

Huard v. OConner, 117 F.3d 12 (1st Cir. 1997) (**guards taunting prisoner over failure to provide care**). Guard denied qualified immunity where he allegedly intentionally provoked pre-trial detainee into attack by taunting him about failure to obtain medication for anxiety disorder.

Gibbs v. San Francisco Sheriff=s Dept., 1999 WL 809859 (N.D. Cal.) (Unpublished opinion) (**seizure medication**) The pro se plaintiff alleged that he suffered a seizure, fell, and was injured because of the prison=s failure to give him his seizure medication when requested. Court found that while it appears that his medication may not have been provided in a timely way, or when it was that he was over medicated, there is no indication of deliberated indifference.

Galvin v. Gibbs, 2000 WL 1520231 (D. Or. 2000) (unpublished) (**PTSD; diabetes; Klonopin**). A Vietnam veteran with PTSD and Type II Diabetes, sued pro se under the ADA and ' 504 alleging defendant prison officials failed to provide him, among other things, with medication (Klonopin) and mental health treatment. The court granted summary judgment on the ADA and ' 504 claims because of

the plaintiff=s failure to allege any discrimination. Treating the claims as being brought under '1983, the court found no deliberate indifference even if the medical needs were serious.

Olsen v. Layton Hills Mall, 2002 WL 31768455 (10th Cir 2002) (**jail; OCD**). Plaintiff, with OCD, was arrested for attempted credit card fraud after a series of innocent mishaps, including a store clerk entering the wrong card expiration date. The plaintiff alleged he had a panic attack after being cuffed, paraded through the mall, and placed in a squad car. His requests for assistance, including his medication, he claimed, were ignored in the car and at the jail. The plaintiff alleged, among other claims, deliberate indifference to his serious medical needs. The Court of Appeals reversed summary judgment granted by the trial court to the defendant police officer.

Victoria W. v. Larpenter, 205 F.Supp.2d 580 (E.D.La. 2002) (**non-therapeutic abortion)**. Summary judgment against county prisoner=s civil rights action for failure to provide non-therapeutic abortion at state expense, as not constituting a serious medical need entitled to Eighth Amendment protection.

Davidson v. Texas. Dept. of Correctional Justice, Institutional Div., 2004 WL 542206 (5th Cir. 2004) (**hepatitis).** Officials refusal to treat mentally ill inmate=s hepatitis B and C with interferon did not violate the Eight Amendment or the ADA as the denial was consistent with generally accepted medical standards and there was no evidence the hepatitis was serious enough to mandate such extraordinary medical intervention. There was evidence that interferon therapy was contraindicated for people with severe depression or other neuro-psychiatric disorders. ADA claim dismissed because inmate had not alleged or shown that he was adversely treated solely because of his mental illness.

Rogers v. Nolan, 2004 WL 1698202 (N.D. Tex 2004) (**bi-polar disorder – inadequate medications**). Prisoner claims that medications she was receiving for her bi-polar illness were so inadequate as to violate the Eight Amendment in light of her symptoms and her requests for more treatment. Court, finding no evidence of deliberate indifference, grants summary judgment to defendants.

Alejo v. Dallas County, 2005 WL 701041 (N.D. Tex. 2005) (**detainee, denial of medications**). A pretrial detainee had her psychiatric medications confiscated when she was booked into the jail. Within two days of her booking, her behavior became very Abizarre.@ She did not see a psychiatrist for ten days. Five days later she died of caffeine poisoning after eating coffee grounds. Her family sued for deliberate indifference to her serious medical needs. The court granted summary judgment to the defendant doctor because the plaintiff was unable to prove, in the court=s view, that the doctor was aware of any substantial risk of harm to the detainee or that the doctor=s response (a standing order for PRN Halodol) was deliberately indifferent.

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Mental health system

Barnes v. Government of Virgin Islands, 415 F.Supp. 1218 (D.V.I. 1976) (**prison**). Plaintiffs alleged that approximately one-half of the inmates in the prison required psychiatric help, but none was available. Nor was there any type of alcohol and drug rehabilitation program despite the prevalence of these problems. The court ruled that medical care, including mental health care, must be comparable to that obtainable by the general public. It ordered the prison to hire a psychiatrist at least one day a week, a full-time psychiatric aid, and an alcohol and drug program. It also ordered a systematic program for screening and evaluating inmates in order to identify those who require mental health treatment. If adequate care cannot be provided within the institution, the inmate should be transferred to an appropriate
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facility.

Newman v. Alabama, 503 F.2d 1320 (5th Cir. 1974), *cert. denied*, 421 U.S. 948 (1975) (**prison; absence of staffing & treatment**). Alabama state prisoners brought class action based on claim that they were deprived of proper and adequate medical treatment. The court held that the Alabama correctional system violated the Eighth Amendment because it provided "only nominal assistance" to mentally ill inmates: "[n]o psychiatrists, social workers or counselors were employed in the system. Additionally, mentally ill inmates were often placed in the general population and when finally removed, left unattended in lockup cells not equipped with restraints."

Alston v. Fair (D.Mass 77-3519) (**maximum security prison)**. Comprehensive consent decree governing provision of mental health treatment at maximum security prison.

Finney v. Hutto, 410 F.Supp. 251, 252, 258 (E.D.Ark. 1976), aff'd 548 F.2d 740 (7th Cir. 1977), aff'd, 437 U.S. 678 (**prisons; absence of MH system**). Class action challenge to conditions, including mental health care, in Arkansas prison system. Court states that until recently, the department had done nothing for mentally ill prisoners "except treat them with drugs, and send violent inmates to the State Hospital to be held temporarily until their periods of violence subside." It had never had any systematic mental health program; nor had it ever employed a full time psychiatrist or psychologist. The court stated that the initiation of a group therapy program does not take the place of regular psychiatrists or psychologists to be used in diagnosing, evaluating and endeavoring to treat individual inmates.

Pugh v. Locke, 406 F.Supp. 318 (M.D.Ala. 1976); aff'd in part and modified sub nom. Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977), *cert. denied*, 483 U.S. 915 (1978) (**prison; overcrowding; mental health care**). Abhorrent conditions in Alabama prison facility violated Eighth Amendment. Discussion, *inter alia*, of overcrowding, medical care, and mental health care. See *Newman v. Alabama*, *supra.*

Palmagiano v. Garrahy, 443 F.Supp. 956 (D.R.I. 1977), remanded 599 F.2d 17 (1st Cir. 1979) (**prison; inadequate staffing & treatment**). Class action challenge to conditions of confinement, including mental health care. The court held that the psychiatric and psychological evaluations and treatment were inadequate because the prison employed no clinical psychiatrist or psychologist, and had no arrangements to provide such treatment. Defendants were ordered to hire an adequate number of mental health professionals to diagnose, treat, and care for prisoners with mental health problems.

Inmates of the Allegheny County Jail v. Pierce, 612 F.2d 754 (3d Cir. 1979) (**jail; inadequate staffing & care**). This class action case challenged, *inter alia*, the program of mental health care at a county jail. The court held that "when inmates with serious mental ills are effectively prevented from being diagnosed and treated by qualified professionals, the system of care does not meet the constitutional requirements. In a population of over 400, there were approximately 60-80 inmates with "easily identifiable and fairly serious mental health problems." The court held that the level of staffing was inadequate because there were no psychiatric professionals on staff, and non-staff psychiatrists could only see inmates when requested by the jail doctor, and then only to recommend medication. The medication was likely to be ineffective or dangerous because of the lack of close supervision.

Lightfoot v. Walker, 486 F.Supp. 504 (S.D.Ill. 1980) (**prison; inadequately MH care delivery system**). Class action challenge to mental health system in Illinois prison. The court found deliberate indifference based on: a lack of a clinical psychologist to provide group or individual therapy; a lack of psychiatrists to perform ongoing psychotherapy treatment and a failure of prison officials to design and implement an

adequate mental health care delivery system; inadequate records; a failure to properly monitor and evaluate patients who were receiving psychoactive medication; unacceptable delays in the transfer of severely disturbed persons to inpatient hospital, during which time the inmates were confined in segregation cells.

Ruiz v. Estelle, 503 F.Supp. 1265 (S.D.Tex. 1980), aff'd in part and rev'd in part, 679 F.2d 1115 (5th Cir. 1982), *cert. denied*, 460 U.S. 1042 (1983) (**prisons; constitutionally-required standards of care**). This is a seminal case establishing widely accepted standards for an adequate prison mental health system. The court held that the constitution requires:

- a systematic program for screening and evaluating inmates in order to identify those who require mental health treatment;
- treatment that entails more than segregation and close supervision of the inmate patients;
- the participation of trained mental health professionals, who must be employed in sufficient numbers to identify and treat in an individualized manner those treatable inmates suffering from serious mental disorders;
- accurate, complete, and confidential records of the mental health treatment process;
- prescription and administration of behavior-altering medications in dangerous amounts, by dangerous methods, or without appropriate supervision and periodic evaluation, is an unacceptable method of treatment and
- a basic program for the identification, treatment, and supervision of inmates with suicidal tendencies.

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980), *cert. denied*, 450 U.S. 1041 (1981) (**maximum security prison; pattern of systemic deficiencies**). Inmates at the maximum security unit of the Colorado State Penitentiary sued for constitutional violations arising from prison conditions, including mental health care. The court found that there was an inadequate staff of mental health professionals, resulting in a system totally incapable of providing adequate care and contributing to inmate suffering, self-mutilation and suicide. There was no on-site psychiatrist or psychologist. The existing staff was overworked, under-trained, and under-qualified. Although negligence is not enough to establish a violation of the Eighth Amendment, in class actions challenging the entire system of health care, deliberate indifference may be shown by proving repeated examples of negligent acts which disclose a pattern of conduct by the prison medical staff, or by proving systemic and gross deficiencies in staffing, facilities, equipment, or procedures such that prisoners are effectively denied access to adequate medical care.

Hendrix v. Faulkner, 525 F.Supp. 435 (N.D.Ind. 1981) (**prison; minimally adequate care**). Class action challenge to conditions, including mental health care. Plaintiffs and defendants offered extensive evidence concerning the quality of care. The court held that where prison provided a psychologist and part-time behavioral clinicians, a position for psychiatrist (although unfilled for two years), an on-site psychiatric unit for grossly disturbed inmates, and an intake program inmates to identify inmates who require mental health care, it provides a minimally adequate level of care.

Robert E. v. Lane, 530 F.Supp. 930 (N.D.Ill. 1981) (**prison; inadequate staffing, facilities & procedures**). Inmates brought action against prison administrators alleging constitutionally inadequate mental health care. The court held that the complaint was sufficient to raise a presumption of illegal conduct because there had been a series of incidents of poor care, and there was evidence about the inadequacy of "staffing, facilities and procedures."

Kendrick v. Bland, 541 F.Supp. 21 (W.D.Ky. 1981) (**prison; failure to train**). Failure to train correctional officers to deal with mentally ill prisoners may violate the constitution.

Finney v. Mabry, 534 F.Supp. 1026 (D.Ark. 1982) (**prison; separate facility for most severely mentally ill required**). Class action challenge to conditions of confinement in Arkansas prison system, including mental health care. The court held that a separate facility for inmates who are the most severely mentally disturbed is constitutionally required. For their own protection and for the safety of others, such inmates must be removed from the general population and provided with treatment and services. In addition, other inmates with mental problems must be provided with "outpatient" type treatment, such as counseling by psychiatrists or other mental health personnel.

Grubbs v. Bradley, 552 F.Supp. 1052 (M.D.Tenn. 1982) (**inpatient transfer of most seriously disturbed prisoners**). Class action challenge to conditions of confinement in Tennessee prison system, including mental health care. Although the court found deficiencies in the availability of treatment that were "lamentable and disturbing," it "reluctantly" concluded that constitutional requirements were met because the most seriously disturbed inmates were transferred to an inpatient unit where treatment was adequate.

Hoptowit v. Ray, 682 F.2d 1237 (9th Cir. 1982) (**prison; failure to provide constitutional minimally-adequate care**). Inmates at Washington state penitentiary challenged unconstitutional conditions of confinement. The court held that staff and programs for the mentally ill were insufficient and the medication distribution system inadequate. To meet constitutional minima, prisoners must be able to make their mental health problems known; mental health staff must be competent to examine prisoners, diagnose problems, treat them or make referrals to other physicians either inside or outside the prison. The prison must be able to respond to emergencies.

Capps v. Atiyeh, 559 F.Supp. 894 (D.C.Ore. 1983) (**prison; adequate number of trained staff**). The court held that "an inmate suffers Eighth Amendment pain whenever he must endure an untreated serious mental illness for any appreciable length of time" To provide minimally adequate mental health care, the prison must have sufficient numbers of trained staff to identify and treat those inmates suffering from serious mental disorders, such as "acute depression, paranoid schizophrenia, psychoses, or nervous collapse." The court found that the prison mental health staffing had been drastically reduced, that inmates had infrequent contact with the treatment staff, there were articulated treatment plans, and records were so badly kept that it was as if they did not exist. Also, given the "meager resources the legislature devotes to mental health care, the staff must make choices they would rather not as to who gets mental health care and how much of it." Although the court was convinced "that inmates must be suffering from untreated mental illnesses", it concluded that "on this record" it was unable to find constitutional violations.

Wellman v. Faulkner, 715 F.2d 269 (7th Cir. 1983), *cert. denied*, 468 U.S. 1217 (1984) (**prison; pattern of systemic deficiencies; vacant staff psychiatrist position**). Inmates at Indiana state prison challenged conditions of confinement, including mental health care. The court held that repeated instances of negligent medical treatment together with evidence of general systemic deficiencies establish deliberate indifference. With regard to mental health, there was inadequate staffing - the position of staff psychiatrist had been unfilled for over two years. Thus, there was no one qualified to evaluate and treat psychiatric emergencies, including suicide, or to maintain patients on long term psychotropic medication.

Balla v. Idaho State Board of Corrections, 595 F.Supp. 1558 (D.Idaho 1984) (**prison; deficient system of care**). Class action challenging constitutionality of conditions at Idaho state correctional institution, including adequacy of mental health care. The court held the psychiatric care provided was constitutionally deficient because: there was little or no screening or testing for mental problems or substance abuse when an inmate enters the prison; there was inadequate staffing; psychotropic medication

was prescribed in lieu of psychiatric counseling; and no psychiatric counseling was available for inmates who were attacked in jail or who attempted suicide.

French v. Owens, 777 F.2d 1250 (7th Cir. 1985), *cert. denied*, 107 S.Ct. 77 (1986) (**prison; systemic deficiencies in staffing, equipment & facilities)**. Deliberate indifference can be proved by "repeated examples of negligent acts which disclose a pattern of conduct by the prison medical staff" or by showing "systematic or gross deficiencies in staffing, equipment, facilities, or procedures." Under either standard, the medical services fell short of what the constitution requires. Thus, the Court affirmed the District Court's order that the prison employ at least one psychiatrist, two psychiatric social workers, one clinical psychologist, and two behavioral clinicians. In addition, the Court affirmed the District Court's order requiring psychiatric approval for the use of restraints. In addition, trained medical personnel must constantly monitor the patient, and a psychiatrist must review the need for further restraint every twelve hours. Those in need of restraints beyond 24 hours must be sent to a psychiatric hospital.

Battle v. Anderson, 788 F.2d 1421 (10th Cir. 1986) (**prisons; consent decree)**. Long-lasting class action challenge to conditions of confinement in Oklahoma prison system, including mental health care. Although some problems still remain, the Court found the overall level of care to be constitutional.

Duran v. Anaya, 642 F.Supp. 510 (D.N.M. 1986) (**prisons; preliminary injunction; lack of finances not a defense**). Long-standing class action brought by New Mexico prisoners resulted in consent decree governing conditions of confinement, including mental health care. In this chapter of the litigation, the court issued a preliminary injunction which prohibited prison officials from laying off or reducing security and mental health staff and which forced them to fill vacancies. The court stated that lack of financing is not a defense to a failure to provide minimum constitutional standards. The court stated that "the preservation of human life and the protection of prisoners from violent assault and the agonies of acute physical or mental illness outweigh any monetary damage that defendants may suffer as the result of the issuance of this preliminary injunction."

Ruiz v. McCotter, 661 F.Supp. 112 (S.D.Tex. 1986) (**prisons; lack of privacy & inmate distrust insufficient showing of deficient system**). Plaintiffs sought contempt for non-compliance with prior court orders regarding various aspects of the Texas prison system. With respect to psychiatric services, the court held that, since the prison system provided access to counselors and mental health professionals, the lack of privacy in consultations and distrust of staff by inmates did not result in an Eighth Amendment violation.

Knop v. Johnson, 667 F.Supp. 512 (W.D.Mich. 1987) (**prisons; state's motion for SJ denied**). Class action challenge to conditions of confinement, including mental health care, in Michigan prisons. Although Michigan spends in excess of $16 million annually on mental health professionals, and has better staffing levels than other systems that have been determined to be constitutionally adequate, the court denied defendants' motion for summary judgment.

U.S. v. Michigan, 680 F.Supp. 928 (W.D.Mich. 1987) (**CRIPA; consent decree**). This long-lasting case was brought by the Department of Justice pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). The decision sets forth a number of orders issued by the court over the course of the litigation. With respect to mental health, the defendants submitted a plan for mental health care and simultaneously submitted a motion to modify it -- to provide for its implementation only "to the extent necessary to assure provision of constitutionally adequate mental health care to prisoners with serious mental illnesses." The court adopted the plan and made it part of the consent decree, but rejected the proposed modification because they would have effectively permitted the defendants to decide for themselves what

they had to do. The court entered a supplementary order to remedy non-compliance with terms of the consent judgment covering psychotropic medication, seclusion and restraint, and identification and treatment of seriously mentally ill inmates in segregation units. With respect to suicide prevention, the court ruled that inmates being evaluated as suicide risks should not be left in the "suicide observation cell" for more than 24 hours before being examined and should be observed every 15 minutes. Subsequent decisions in the case are reported at *U.S. v. Michigan*, 940 F.2d 143 (6th Cir. 1991), and 18 F.3d 348, *cert. denied*, 115 S.Ct. 312 (1994).

Cody v. Hilliard, 599 F.Supp. 1025 (D.S.D. 1984), aff'd in part, rev'd in part on other grounds, 830 F.2d 912 (8th Cir. 1987), *cert. denied*, 485 U.S. 906 (1988) (**prisons; multi-levels of care required**). Class action challenge to conditions of confinement, including inadequate mental health care. The court holds that three levels of care are essential in providing an adequate system of psychiatric and psychological care: (1) inpatient hospitalization for acute psychotic and suicidal inmates; (2) intermediate care for patients who have been stabilized by medication but who cannot return immediately to the general inmate population; and (3) outpatient care for general population inmates so prescribed medications can be monitored and they can receive psychotherapy. This will require significantly expanded staffing, including psychiatrists and psychologists.

Morales Feliciano v. Hernandez Colon, 697 F.Supp. 37 (D.P.R. 1988) (**jail**). A conditions of confinement case in which the court also found the mental health care system to be unconstitutional. It ordered the defendants to remove all mentally ill prisoners from the jail and to transfer any future mentally ill prisoners within 48 hours.

Langley v. Coughlin, 715 F.Supp. 522 (S.D.N.Y. 1988) (**prison**). Class action challenge to mental health care brought by women housed at Bedford Hills prison in New York The litany of problems recited by the court included: "such basic inadequacies as the failure to take a complete medical history, failure to keep adequate records, failure to take into account the inmate's prior psychiatric history, failure to see inmates suffering from seeming mental crises, failure properly to diagnose mental conditions, failure to prescribe proper medication and prescription of inappropriate medication, failure to provide any meaningful treatment other than medication, failure to justify decisions as to diagnoses or treatment or termination of treatment, and seemingly cavalier refusals to consider that an inmate's bizarre behavior could conceivably be the result of a genuine mental disorder, even though in some cases OMH [Office of Mental Health] had previously diagnosed the inmate as suffering from such a disorder." The court also noted a lack of any regular access to counseling for those in need, an absence of criteria for personnel to follow concerning when to make referrals to OMH, the failure to develop adequate treatment plans, displays of hostility by prison psychiatrists to their female patients, and a failure to maintain any capacity to treat inmates who were assaultive or aggressive but could not tolerate isolation. In addition, the court cited "dramatic failures to meet even minimal professional standards . . . and a number of instances in which apparently unqualified or untrained personnel were performing functions that should have been undertaken by a psychiatrist or under his close supervision," outright denial of medical care, and "significant" delay in providing services. The court ruled that "even if none of the numerous individual failings themselves established a violation of constitutional rights on the basis of the prison officials' indifference, the pattern of consistent and repeated failures of this sort over an extended period of time would permit a trier of fact to conclude that the responsible officials were in fact deliberately indifferent." The court also suggested that the *Youngberg v. Romeo* [457 U.S. 307, 102 S.Ct. 2452 (1982)], "professional judgment" standard for treatment of civilly committed persons may be applicable to prison medical claims. A violation of the professional judgment standard may be shown by proof that decisions were made by untrained personnel that should have been made by doctors, that some decisions reflected personal hostility and not professional standards, or that there were significant deviations from

professional standards.

Balla v. Idaho State Board of Corrections, 869 F.2d 461 (9th Cir. 1989) (**prisons; screening, staffing, treatment**). The court held that an order requiring a "systematic" program for screening and evaluation of prisoners for mental illness, participation of "sufficient" numbers of mental health professionals, and a "basic" program for treating suicidal prisoners was too vague to be enforced in contempt.

Inmates of the Allegheny County Jail v. Wecht, 699 F.Supp. 1137 (W.D.Pa. 1988), *cert. granted, and vacated on other grounds*, 493 U.S. 948 (1989) (**jail; lack of treatment**). Another chapter in a longstanding case challenging overall conditions of confinement, including mental health. The court concluded that the jail was "no longer constitutionally adequate" even though conditions were vastly better than they were at the beginning of the litigation. Among the many deficiencies noted by the court, were the lack of adequate space for mental health facilities, which resulted in the exclusion of many inmates from mental health units.

Langley v. Coughlin, 709 F.Supp. 482 (S.D.N.Y. 1989), aff=d 888 F.2d 252 (2d Cir 1989) (**female prisoners; segregation**). Class action challenge to mental health care brought by women housed at Bedford Hills prison in New York. The court held that allegations that mentally disordered women were inappropriately kept in punitive segregation, not provided with adequate psychiatric care, and that officers were not adequately trained, stated claims of deliberate indifference. The practice of housing healthy or non-disruptive inmates with physically or psychiatrically ill inmates, which resulted in "noise and squalor," violated the Eighth Amendment. The Unit Chief who supervised and established procedures for the mental health "satellite unit" was sufficiently involved to be held liable in damages. The Commissioner could also be held liable based on his knowledge of the complaint in this case and a report describing the deficiencies.

Langley v. Coughlin, 888 F.2d 252 (2d Cir. 1989) (**widespread violations of standards; qualified immunity**). Court affirmed district court ruling that plaintiffs' claim of widespread violations of standards concerning deliberate indifference to medical needs are not barred by qualified immunity. Even if defendants were entitled to qualified immunity as to some aspects of the challenged conduct, "we conclude that the allegations are so interrelated that precise determination of the extent to which the immunity defense is available must await fact-finding." The court stated: "We think it plain that from the legal standpoint psychiatric or mental health care is an integral part of medical care. It thus falls within the requirements of *Estelle v. Gamble*…. [This] may present practical problems for prison administrators. Facilities for effective mental care may not be available at every prison. But the same is true of expensive equipment in other fields of medicine, such as dialysis machines. And the administrative problem, to be sure, is exacerbated by current fiscal constraints arising from federal policies in recent years dominated by deficit consciousness and diminution of funds for social services. Nevertheless the basic legal principle is clear and well established . . . that when incarceration deprives a person of reasonably necessary medical care (including psychiatric or mental health care) which would be available to him or her if not incarcerated, the prison authorities must provide such surrogate care."

Tillery v. Owens, 719 F.Supp. 1256 (W.D.Pa. 1989), aff'd, 907 F.2d 418 (3rd Cir. 1990) (**prison; inadequate system**). The court held that mental health care at the State Correctional Institution at Pittsburgh is unconstitutionally inadequate on the following grounds: the psychiatric department is understaffed and the psychological staff, which does screening, is too small for the growing population--there are no psychiatric nurses nor psychiatric social workers; inadequate record keeping; delays in responding to requests for psychiatric consultations; inadequate record-keeping that restricts treatment and follow-up care; the staff is not trained to recognize signs of an impending psychotic episode, as a

result inmates receive psychiatric care only after a dramatic event occurs; supervision of psychotropic medication therapy is inadequate because 25% of inmates are non-compliant, and there's no dependable procedure to notify the psychiatrist if they refuse to take their medication. Instead, they are put in segregation and their psychological counseling is discontinued; the separate wards for psychiatric inmates are not conducive to treatment because they're dirty and inadequately staffed. Although there should be a separate unit for the severely mentally ill, it should not be a "dumping ground" for those requiring psychiatric hospitalization. It should be for those returned from a mental hospital who will not take their medication regularly, maintain basic hygienic practices, accept dietary restrictions, or report symptoms of illness; individual and group psychotherapy, psychotropic medication, and environmental treatment are all inadequate. Defendants have failed to maintain an environment conducive to treatment of serious mental illness: "facilities are malodorous, filthy, dismal and crowded ... the atmosphere is oppressive and terrifying ... this exacerbates the deterioration of mentally ill inmates."

Hamilton v. Morial, (D.La. 1991) (unpublished) (**jail; national standards**). Plaintiffs challenged conditions at the municipal jail for the City of New Orleans. The court entered an order requiring the defendants to conform to the mental health standards adopted by the National Commission on Correctional Health Care. Defendants were also ordered to remove all state hospital patients from the jail within 90 days.

Inmates of Allegheny County Jail v. Wecht, 797 F.Supp. 425 (W.D. Penn. 1992) (**jail; deinstitutionalization**). The court states its belief that this 16-year-old case is "progressing toward resolution." The court approved defendants' plan for an "intensive case management" program for persons with mental illness in the jail, i.e., a program of providing services to inmates in the general population, rather than their previous plan for construction of a separate mental health facility. The court "believe[s] that the deinstitutionalization philosophy in the mental health field constitutes a significant change in treatment prescribed for the mentally ill" warranting modification of previous order. It also permitted defendants to use fine money accumulated for previous judgment violations to implement the new mental health program, with monitoring by the court's Jail Monitor.

Casey v. Lewis, 834 F.Supp. 1477 (D.Ariz. 1993) (**prison; female prisoners**). Class of inmates sued Arizona prison officials for deliberate indifference to serious medical needs. The court held that the mental health care violates the Eighth Amendment, and female prisoners' equal protection rights were violated with regard to mental health care services because they did not receive comparable facilities and programming. Problems included: inadequate screening of incoming inmates. For women, unqualified security staff identified mentally ill women; records of all inmates were not routinely reviewed and mentally ill inmates did n ot get help until they ask for it or deteriorated; inadequate staffing of psychiatrists and psychologists; delays in assessment and treatment; use of lockdown as an alternative to mental health care - the court characterized this as "appalling"; problems with monitoring of, and delays in receipt of, psychotropic medication (medication was prescribed, continued and discontinued without face to face evaluations by psychiatrists; also, there was no method to ensure that patients take their medication); insufficient mental health programming; behavior modification was implemented by untrained security officers.

Cameron v. Tomes, 990 F.2d 14 (1st Cir. 1993) (**wheelchair accessible housing; right not to have mental condition affirmatively worsened**). Although the court of appeals specifically declined to adopt the district court's determination that there is a constitutional right to minimally adequate treatment for mental disorders, it nevertheless sustained most of the district court orders regarding such things as medical treatment in an outside hospital and wheelchair accessible housing, reasoning that plaintiff has the right not to have his mental condition affirmatively worsened.

Thompson v. County of Medina, Ohio, 29 F.3d 238 (6th Cir. 1994) (**detainees**). Pretrial detainees filed case challenging conditions of confinement, including mental health care, in a county jail. The court held that they had failed to raise material issues of fact precluding summary judgment. The jail employed a psychiatrist who provided counseling to inmates, and no allegations were made that this was inadequate.

Klinger v. Nebraska Department of Correctional Services, 31 F.3d 727 (8th Cir. 1994) (**female prisoners; disparate care to male inmates)**. Class action brought by female inmates who alleged that their equal protection rights were violated because, *inter alia*, they were not afforded mental health services comparable to that provided male prisoners. The district court found that a substantial disparity in counseling services had existed between 1988 and 1990, and that women still received unequal inpatient mental health services. The court of appeals reversed on grounds that male and female prisoners were not similarly situated and equal protection does not mandate comparable treatment.

Taylor v. Wolff, 158 F.R.D. 671 (D.Nevada 1994) (**prison; MH system; strip searches**). Nevada Dept. of Prisons made request for finding of compliance with mental health plan implemented under settlement of class action on behalf of Nevada inmates. The court found the Department in full compliance, considering they have gathered a superb staff, constructed new state of the art facilities, acquired and installed a state of the art computer tracking system, and made revisions in rules, practices, and documentation policies. One remaining problem is that maximum security inmates who were transferred to receive inpatient care are being subjected to strip searches each time they leave and return to the housing unit, and are being locked in their cells when a staff person enters the unit. This will inhibit mental health treatment, but is acceptable as a short term interim method of balancing security concerns and mental health interests.

Austin v. Pennsylvania Dept. of Corrections, 876 F.Supp. 1437 (E.D.Pa. 1995) (**prisons; settlement agreement**). Class action by present and future inmates of facilities run by the Pennsylvania Dept. of Corrections against the governor, Commissioner of the Department, and the superintendents of thirteen facilities for declaratory and injunctive relief. The court approved a settlement decree establishing comprehensive improvements in mental health care: (1) The number of beds in Special Needs Units (SNUs) that provide on-site therapeutic bed space for inmates who are seriously mentally ill or who require short term commitment to a forensic facility will be nearly doubled, from 450 to 800. This will prevent them from having to be placed in Restricted Housing Units where treatment and other programs are far less accessible. (2) Inmates on psychotropic medications will be evaluated at least once every six months for tardive dyskinesia, and will receive medical treatment if this condition should occur. (3) Inmates who refuse to take psychotropic drugs will not be placed in administrative custody for that reason. (4) Improved programs in the SNUs. (5) Better quality control over mental health care: individualized treatment plans, specialized unit treatment requirements, and a tracking system with extensive mental health data, which allows for ongoing assessment of inmate needs. (6) A new position entitled "Chief of Psychiatric Services" to oversee and coordinate all mental health care in the prison system. (7) A Peer Review Committee for quality assurance in mental health care analogous to that utilized by major hospitals.

Coleman v. Wilson, 912 F.Supp. 1282 (E.D.Cal. 1995) (**prisons; appointment of special master**). Class action challenge to adequacy of mental health care in virtually the entire California prison system. The court affirmed a magistrate's decision that the mental health treatment was grossly deficient and that officials have failed to take reasonable steps to remedy the problem. Deficiencies in the system included: inadequate screening for mental health issues; a severe shortage of mental health staff; no effective quality assurance plan; unacceptable delays in access to mental health care; inadequate management of

medication; inappropriate use of involuntary medications; no effective review of restraint procedures; medical records were disorganized and incomplete; inadequate suicide watch program; insufficient training of custodial staff; inappropriate placement of mentally ill inmates in segregation. The court referred the case back to the magistrate to appoint a special master and begin immediate remedial plans.

Armstrong v. Wilson, 942 F. Sup. 1252 (N.D. Cal. 1996), aff'd 124 F.3d 1019 (9th Cir. 1997) (**ADA; inmates who use wheelchairs, are deaf or are blind; access to prison programs**). After finding prison officials are not entitled to 11 Amend. immunity, t he Court issued an injunction for the Calif. Dept. of Corrections to improve access for prisoners with disabilities to prison programs.

Clark v. California, 123 F.3d 1267 (9th Cir. 1997) (**prisoners with developmental disabilities; ADA**). After extensive discovery, prison administration agreed to develop and implement a remedial plan to screen inmates for developmental disabilities and to provide them with supportive services.

Benjamin v. Fraser, 161 F. Supp. 2d 151 (S.D. N.Y. 2002) (**detainees**). Conditions in city jails, including in the mental health observation units, taken in combination, constitute a violation of pre-trial detainees= due process rights and warrant continuation of prospective relief under PLRA. This is true even though each condition alone (including unsanitary mattresses, clogged vents, vermin, clogged toilets, and dirty clinic areas) did not amount to a constitutional violation.

Laube v. Haley, 234 F.Supp.2d 1227 (M.D.Ala. 2002) (**female prisoners, classification, conditions, preliminary injunction**). This case is a broad based 8th Amendment challenge to the conditions for female inmates in Alabama prisons. Allegations include that prisoners with mental illness are erroneously classified for the general population, which creates a dangerous situation which has resulted in grave injury, and are denied medications and treatment. The court entered a preliminary injunction as to the unconstitutionally unsafe conditions at Tutweiler prison, but denied it at the other facilities. The court also preliminarily declared that unsafe conditions at Tutweiler violate the 8th Amendment and orders the defendants to take immediate affirmative steps to remedy the unsafe conditions.

Hallett v. Morgan, 287 F. 3d 1193 & 296 F.3d 732 (9th Cir. 2002) (**female prisoners**). Conditions of mental health and dental care at Washington women=s prison do not violate 8th Amendment, despite low number of mental health staff. Outpatient services, available within four days after in-house triage (within one day) were sufficient. Inmates have treatment plans, access to weekly group therapy, and medications are monitored by prison psychiatrist.

Atwell v. Hart County, Kentucky, 2005 WL 245282 (6th Cir. 2005) (**detainee)**. Pretrial detainee with mental illness brought claims under ' 1983, the ADA and state tort law alleging excessive force, deliberate indifference to mental health medical needs. The plaintiff had been arrested for trespassing on a golf course. After arrest he was taken to jail and placed in isolation. When the jail sought to transfer him to a mental health facility, he resisted and was subdued with pepper spray. According to jail records, he refused to take offered antipsychotic medication. The Circuit Court affirmed the trial court=s entry of summary judgment for the defendants. The court observed the failure to provide mental health care was because the plaintiff refused to accept what was offered, that excessive force was not used, and that the discrimination claims fail because the plaintiff, although mentally ill, was not disabled because his impairments were not permanent or long term limitations on any major life activity.

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Miscellaneous
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Buthy v. New York Commissioner of Office of Mental Health, 818 F.2d 1046 (2d Cir. 1987) (**disparate treatment of forensically committed patients**). More onerous treatment of forensically committed patients than that of civilly committed patients was justified by security considerations and did not violate Equal Protection Clause.

Powell v. Coughlin, 953 F.2d 744 (2d Cir. 1991) (**MH information; disciplinary hearings**). The court upholds prison policy that mental health staff may be consulted by the hearing officer at a disciplinary hearing, even though the resulting information is not communicated to the inmate.

Maust v. Headley, 959 F.2d 644 (7th Cir. 1992) (**least restrictive setting**). The Legislature amended a statute after a court ruled that it gave prisoners found incompetent to stand trial a liberty interest in confinement in the least restrictive setting. The court ruled that the amended statute failed to create a such a liberty interest.

Wately v. Parks, 2002 WL 31388792 (6th Cir. 2002) (unreported decision) (**state's use of MH records to support SJ motion**). Affirming district court=s grant of summary judgment to defendant chief psychiatrist at Ohio Correctional Facility. Plaintiff=s objection that defendant submitted and relied upon his (the prisoner=s) mental health record in his (the doctor=s) summary judgment motion is considered meritless.

Treats v. Morgan, 308 F.3d 868 (8 Cir. 2002) (**pepper spray**). Affirming denial of summary judgment on qualified immunity grounds in 1983 case by Arkansas state prisoner against the use of pepper spray, where the plaintiff was not an immediate risk of harm to himself or others.

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PLRA (sample of PLRA related mental health cases only)

Ruiz v. Johnson, 37 F.Supp.2d 855 (S.D.Tex. 1999), rev=d and remanded sub nom. Ruiz v. US, 243 F.3d 941 (5th Cir. 2001), on remand Ruiz v. Johnson, 154 F.Supp.2d 975 (S.D.Tex. 2001) **(segregation; health care services)**. The defendants, using the PLRA, sought relief from earlier decrees. The trial court, in an 80-page opinion, held portions of the PLRA to be unconstitutional. The court further held that the placement of prisoners in administrative segregation was a violation of the 8th Amendment, that the prisons exhibited deliberate indifference to the safety of prisoners and that prisoners were subjected to excessive force. On appeal, the 5th Circuit reversed the findings related to the PLRA and remanded for further findings. On remand, the district court held that there were ongoing constitutional violations in areas of safety, use of force, and use of administrative segregation, but no violations in provision of health care services.

Booth v. Cherner, 532 U.S. 371 (2001) (**exhaustion**). Under PLRA, 42 U.S.C. 1997e(a), an inmate seeking only money damages must complete any prison administrative process capable of addressing the inmates complaint and providing some form of relief, even if the process does not make specific provision for monetary relief.

Peterson v. Ward, 823 So. 2d 1146 (La. Ct. of Appeals, 2d Cir. 2002) (**restraint; exhaustion**). Inmate's purported habeas corpus petition seeking release from lockdown and transfer to a mental health unit in another facility fails because, despite styling, complaint did not lie in habeas corpus, and prisoner failed to exhaust administrative remedies through DOC as required by PLRA.

Callegari v. Chesterman, 2002 WL 31478178 (N.D. Cal. 2002) (**emotional injuries**) Pro se prisoner
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brought a '1983 case against corrections officers and physicians alleging, among other things, insufficient mental health care. The court dismissed the claim because the plaintiff failed to allege any physical injury (only mental and emotional distress) from the alleged insufficient care.

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Private prisons

Correctional Services Corp. v. Malesko, 534 U.S. 61 (2001) (**federal prisoners**). A Bivens action (403 U.S. 388) by a federal prisoner is unavailable against private prison contractor or other corporate entity, only against individuals. A federal prisoner with known heart condition was forced to climb stairs and had a heart attack, but suit against contractor (guard=s employer) dismissed.

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Qualified immunity

Cortes-Quinones v. Jiminez-Nettleship, 842 F.2d 556 (1st Cir. 1988), *cert. denied*, 488 U.S. 823 (1988) (**failure to segregate seriously mentally ill who murdered a prisoner**). Prison officials were deliberately indifferent to health and safety needs of a psychiatrically disturbed prisoner who was killed and dismembered by other inmates in an horrendously overcrowded jail in Puerto Rico. A prior court order required the segregation of severely mentally ill prisoners. When "a supervisory official is placed on actual notice of a prisoner's need for physical protection or medical care, administrative negligence can rise to the level of deliberate indifference." Defendants were not entitled to qualified immunity because the court orders regarding psychiatric segregation were well known. The court rejects the argument that in a seriously deficient system, courts should hesitate to deny immunity to officials who are working for constructive change.

Rich v. City of Mayfield Heights, 955 F.2d 1092 (6th Cir. 1992) (**jail, suicide**). In a jail suicide case, the defendant officer was entitled to qualified immunity for running to get help rather than immediately cutting down the prisoner. It was clearly established that a detainee "had a due process right to adequate medical care, even if his injuries were self-inflicted." Detainee had a right "to have medical assistance summoned immediately upon the police officers becoming aware that he was in need of immediate medical care." That right was not violated.

Gay v. Turner, 994 F.2d 425 (8th Cir. 1993) (**transfer to mental hospital**). Temporary transfer of inmate to mental hospital did not warrant full due process procedural protections, and prison officials were entitled to qualified immunity on plaintiff's claim that she was forcibly injected with psychotropic drugs in violation of her due process rights.

Flood v. Hardy, 868 F.Supp. 809 (E.D.N.C. 1994) (**post-release suicide**). Sheriff who persuaded a judge by telephone to grant early release to decedent prisoner without informing the judge that the prisoner was mentally ill and in no condition to take care of himself was not entitled to qualified immunity.

Hogan v. Carter, 70 F.3d 112 (4th Cir. 1995, unreported decision); 1995 WL 674574 (**Thorazine; 4-point restraints**). Plaintiff filed suit against prison doctor who had authorized forcible administration of Thorazine and four point restraints over the telephone. The Court held the defendant was not entitled to qualified immunity because under Washington v. Harper, 494 U.S. 210 (1990), the law was clear that forcible administration of antipsychotic drugs without due process was violative of constitutional rights. In addition, there was a dispute whether a mental health emergency existed that would have warranted immediate administration of medication.

Comstock v. McCrary, 273 F. 3d 693 (6th Cir. 2001) *cert. denied*, 123 S.Ct. 86 (2002) (**prison, knowledge of risk**). Personal representative of prisoner's estate brought ' 1983 action against prison's medical personnel after prisoner committed suicide while in prison. The District Court denied defendants' motion for summary judgment based on qualified immunity. Defendants appealed. The Court of Appeals held that evidence was sufficient to establish that prison psychologist subjectively perceived, and that he was deliberately indifferent to risk, that prisoner might commit suicide; and prisoner's constitutional right to continuing medical treatment, once he had been determined to be suicidal, was clearly established.

Robinson v. Weiss, 2001 WL 640980 (D.Del.) (**delegation of care to private contractor**). State defendants= motion for summary judgment on qualified immunity grounds, against detainee=s 1983 claim for deliberate indifference to pre-defined serious and immediate medical needs, denied where defendants sought to exculpate themselves by merely alleging delegation of medical care provision to private contractor.

Clark v. Prison Health Services, Inc., 2002 WL 31255444 (Ga. Ct. of Appeals 2002) (**jail; suicide; knowledge of MH issues**). Intake screening and assessment identified the decedent as needing a mental health referral. The referral form apparently was lost. A subsequent classification profile did not mention mental health issues. The decedent was not seen by a mental health staff person and within five days, hung himself. Although the appellate court dismissed the intentional infliction of emotional distress claims, it held that the acts of the classification officer and the county defendants were not protected by qualified immunity and allowed portions of the case to go forward.

Treats v. Morgan, 308 F.3d 868 (8th Cir. 2002) (**pepper spray**). Affirming denial of summary judgment on qualified immunity grounds in 1983 case by Arkansas state prisoner against the use of pepper spray, where the plaintiff was not an immediate risk of harm to himself or others.

Ziemba v. Armstrong, 343 F. Supp. 2d 173 (D. Conn. 2004) (**four-point restraints**). Prisoner alleged prison officials failed to provide constitutionally adequate health and mental health care and used excessive force while he was in four-point restraint. Court found prisoner had adequately stated allegations necessary to support an Eighth Amendment claim, and also that reasonable prison officials ought to have understood in 1998 that restraining an inmate, with no penal justification, with mental illness for 22 hours with no food, no water, and no access to a bathroom, violated the Eight Amendment, thus officials were not entitled to qualified immunity.

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Release/discharge (see also “Right to refuse treatment” and “Sexual offenders”)

Bowring v. Godwin, 551 F.2d 44 (4th Cir. 1977) (**parole denial; medical necessity test**). Plaintiff was denied parole because of a psychological evaluation indicating poor prospects for success on parole. He filed suit seeking psychiatric treatment to render him suitable for parole. The court held that there is no "underlying distinction" between the right to medical care for physical ills and care for psychological or psychiatric ills. Inmates have a "limited right" to psychological or psychiatric treatment under the Eighth Amendment if a physician or other health care provider "concludes with reasonable medical certainty that: (1) the prisoner's symptoms evidence a serious disease or injury; (2) such disease or injury is curable or may be substantially alleviated; and (3) the potential for harm to the prisoner by reason of delay or the denial of care would be substantial." This right to treatment is limited by cost and time considerations, the essential test being "medical necessity" and not simply that which may be desirable.

Wakefield v. Thompson, 117 F.3d 1160 (9th Cir. 1999) (**antipsychotic medications**). The state must
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provide a released prisoner who continues to require antipsychotic medication with a supply sufficient to ensure he has medication until time reasonably necessary to consult a doctor an obtain a new supply.

Flood v. Hardy, 868 F.Supp. 809 (E.D.N.C. 1994) (**jail; suicide after release**). Sheriff who persuaded a judge by telephone to grant early release to decedent prisoner without informing the judge that the prisoner was mentally ill and in no condition to take care of himself was not entitled to qualified immunity.

Brad H. v. City of New York, 712 N.Y.S. 2d 336 (Sup. Ct. 2000), aff=d 716 N.Y.S.2d 852 (A.D. 1st Dept. 2000); 729 N.Y.S. 2d 348 (Sup. Ct. 2001) (**discharge planning**). A significant decision on a state-law based right of inmates to receive discharge planning.

Armstrong v. Davis, 275 F.3d 849 (9th Cir. 2001) (**ADA**). The Court issued an injunction ordering the California Board of Prison Terms to remedy its failure to comply with the ADA during parole hearings. The order was issued after receiving evidence that: a prisoner had to leave his wheelchair to crawl upstairs to a parole hearing; another prisoner who is deaf was shackled during the hearing and could not communicate with the sign language interpreter; and a blind prisoner was not provided help with complicated written materials.

Thompson v. Davis, 295 F.3rd 890 (9th Cir. 2002) (**parole; substance abuse histories; ADA**). Two prisoners eligible for parole filed action for prospective relief under the ADA and District Court dismissed for failure to state a claim. On appeal, the Court reversed and remanded, holding that the complaint stated a claim under the ADA. Under the ADA Title II, a parole board may not categorically exclude a class of disabled people (here, all prisoners with substance abuse histories) from consideration for parole because of their disabilities; however, the ADA does not categorically bar a state parole board from making an individualized assessment of the future dangerousness of an inmate by taking into account the inmate's disability.

Coleman v. Martin, 363 F. Supp. 2d 894 (E.D. Mich. 2005) **(parole)**. The state=s parole scoring system, which assigned negative scores for certain situations involving inmates with mental illness, was rationally related to legitimate state interests of protecting public safety. It was not irrational for the state to consider the effect of mental illness on an inmate=s potential for recidivism or its impact on his ability to readjust to the community after release.

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Restraint

Lovell v. Brennan, 566 F.Supp. 672 (D.Maine 1983), aff=d 728 F.2d 560 (1st Cir. 1984) (**restraint cells**). Class action challenge to overall conditions, including mental health care. As a result of improvements made during the course of the litigation, the parties agreed treatment was now adequate. However, the court held that sordid conditions in the restraint cells were unconstitutional.

French v. Owens, 777 F.2d 1250 (7th Cir. 1985), *cert. denied*, 107 S.Ct. 77 (1986) (**prison)**. Deliberate indifference can be proved by "repeated examples of negligent acts which disclose a pattern of conduct by the prison medical staff" or by showing "systematic or gross deficiencies in staffing, equipment, facilities, or procedures." Under either standard, the medical services fell short of what the constitution requires. Thus, the Court affirmed the District Court's order that the prison employ at least one psychiatrist, two psychiatric social workers, one clinical psychologist, and two behavioral clinicians. In addition, the Court affirmed the District Court's order requiring psychiatric approval for the use of restraints. In addition,
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trained medical personnel must constantly monitor the patient, and a psychiatrist must review the need for further restraint every twelve hours. Those in need of restraints beyond 24 hours must be sent to a psychiatric hospital.

Ferola v. Moran, 622 F.Supp. 814 (D.R.I. 1985) (**shackling to bed)**. Plaintiff brought civil rights action charging that prison officials subjected him to cruel and unusual punishment by denying him psychiatric treatment and shackling him to his bed. The court held that the care afforded the prisoner did not reflect deliberate indifference to his psychiatric needs, but that the shackling violated the Eighth Amendment. It granted equitable relief and damages of $1,000.

Wells v. Franzen, 777 F.2d 1258 (7th Cir. 1985) (**use of restraints without doctor's order)**. Plaintiff was placed in restraints for nine days after prison officials concluded he might be suicidal. He was not interviewed by a psychiatrist until the fifth day. The court held that a prisoner may not be restrained except when ordered by a health care professional in accordance with professional standards. The nature and duration of restraint must be reasonably related to its purpose and may be employed only when less drastic measures have proved to be ineffective. Although in an emergency restraints may be imposed without involving a doctor, they may not be continued without a proper determination by a health care professional.

Liscio v. Warren, 901 F.2d 274 (2d Cir. 1990) (**alcohol withdrawal**). Plaintiff alleged prison medical staff was deliberately indifference to his medical needs while he was suffering from alcohol withdrawal. He was placed in restraints and not examined by a physician for three days despite his worsening mental and physical condition. The court reversed the district court's grant of summary judgment to the defendant because it was not clear whether defendant's conduct constituted mere negligence or deliberate indifference.

Frohmader v. Wayne, 766 F.Supp. 909 (D.Colo. 1991) (**jail; full restraints & football helmet**). The plaintiff was progressively restrained in handcuffs, a "belly belt," and full restraints including a football helmet, allegedly because he was hitting and kicking the cell walls and banging his head against the bars. The defendant who restrained him could not be held liable in the absence of any evidence to contradict the defendant's statement that he was trying to keep the plaintiff from harming himself. The plaintiff alleged he suffered an anxiety attack in the cell and the defendant failed to call his mental health providers, even though he gave the defendant their cards. The defendant was not deliberately indifferent, since he called an emergency medical technician to check the restraints and to contact the jail's on-call mental health professional, who decided by telephone that the plaintiff could wait until morning.

Anderson v. County of Kern, 45 F.3d 1310 (9th Cir. 1995) **(safety cell**). District Court did not err in refusing to enjoin officials from ever making use of safety cell for mentally disturbed or suicidal prisoners.

Swans, Sr. v. City of Lansing, 65 F. Supp. 2d 625 (W.D. Mich. 1998) (**jail; kick-stop restraint; death**). Swan=s heirs awarded $12.6 million for his death in jail while in restraint. Swan, an inmate with obvious and know mental illness, was restrained in a Akick-stop@ restraint which was described as restraining the prisoner with legs and arms tied behind his back to a strap on his waist. Swan was placed face down. There was a video tape of the take down and restraint by six corrections officers and their failure to monitor and observe. Lack of training apparently was also a factor in the very large jury award.

Campbell v. Sikes, 169 F.3d 1353 (11th Cir. 1999) (**straight jackets; 4-points; tethering**). Female prisoner, with long history of mental illness and polysubstance abuse, sued under ' 1983 with claims for

excessive restraint, excessive forces, deliberate indifference to medical needs, and for use of punishment in lieu of treatment. Her compliant also included state law claims for medical negligence and intentional infliction of emotional distress. The plaintiff was restrained at various times in straight jackets, four-point restraint, and in an AL@ shape restraint with her knees bent so that her calves were perpendicular to her back. This was accomplished by handcuffing her ankles and her hands and running a strap from the cuffs on her hands to those on her ankles. (The Plaintiff called this Ahog-tying,@ the defendants called it Atethering.@) The court held that excessive-force claims depend on whether the periods of restraint were instituted Amaliciously and sadistically for the very purpose of causing harm.@ It also held that courts should give deference to prison officials= punitive judgments and that compliance with prison policies evidences officials= good faith. Finding insufficient evidence to support a jury=s finding that any of the defendants possessed the subjective mental intent required to support the deliberate indifference and excessive force claims, the court affirmed the district court=s order of summary judgment for the defendants on these counts. With regard to the claims against the prison=s part time psychiatrist (alleging, among other things, a failure to diagnoses bi-polar illness), the court held there was insufficient evidence to show deliberate indifference, absent a showing of subjective mental intent. The plaintiff=s proffered expert testimony did not establish the psychiatrist=s subjective mental intent.

Brazelton v. Myatt, 1999 WL 966435 (N.D. Ill.) (unpublished opinion) (**juveniles; shackling during transport**). Female juvenile plaintiff incarcerated at a Youth Camp sues after being shackled for transportation to a parole hearing despite a medical condition which prohibited shackling. She was forced to walk, fell and injured herself. Defendants= motion to dismiss, based on failure to exhaust administrative remedies, failure to state a claim, and qualified immunity, is denied.

*Hope v. Pelzer***,** 536 U.S. 730. 122 S.Ct. 2508 (2002) (**shackling to hitching post**). Unnecessary infliction of pain without penological justification violated Eighth Amendment. No qualified immunity defense for prison staff who shackled Alabama state prisoner to Ahitching-post.@

West v. Macht, 235 F.Supp.2d 966 (E.D.Wisc. 2002) (**seclusion**). Plaintiffs are past and current patients at Wisconsin Resource Center (WRC), a state correctional institution which also houses civilly committed sexually violent persons. Their claims include violations of their due process rights due to extended periods of restraint and seclusion. The plaintiffs allege they were unlawfully subjected to seclusion often lasting weeks or sometimes more than a month. Some seclusion was ordered by the administrative staff, but most was carried out pursuant to secure Management Plans, created and implemented by psychologists and others. Plaintiffs were sometimes placed in seclusion naked. The bare cells were sometimes without toilets and plaintiffs were provided a bag in which to relieve themselves. Access to areas outside the cells were limited (in physical restraints) to an hour a day on weekdays and not at all on weekends, at least during the first phase of the plan. Although dismissing some claims, the Court finds there is sufficient evidence for a reasonable jury to overcome the presumptive validity of the defendant psychologists= decisions and to justify a finding that defendants violated the *Youngberg v. Romeo* standard. (The court cited CPR attorney Susan Stefan=s 1992 Yale L.J. article on the professional judgment standard.) The opinion includes a detailed discussion of the content and legal merit of the plaintiffs= experts= reports.

Ziemba v. Armstrong, 343 F. Supp. 2d 173 (D. Conn. 2004) (**four-points**). Prisoner alleged prison officials failed to provide constitutionally adequate health and mental health care and used excessive force while he was in four-point restraint. Court found prisoner had adequately stated allegations necessary to support an Eighth Amendment claim, and also that reasonable prison officials ought to have understood in 1998 that restraining an inmate, with no penal justification, with mental illness for 22 hours with no food, no water, and no access to a bathroom, violated the Eight Amendment, thus officials were not

entitled to qualified immunity.

Toguchi v. Chung, 391 F.3d 1051 (9th Cir. 2004) (**therapeutic lockdown; restraints; death)**. The plaintiff=s decedent had a long history of mental illness and substance abuse. He violated his parole eight months after his release and was returned to prison. Upon his return, he was placed in two weeks of Atherapeutic lockdown,@ prescribed psychiatric medications, then returned to general population. Within a week, his behavior was out of control and his mental status problematic. His doctor (Chang) believed it likely he was having crystal methamphetamine (Aice@) flashbacks, determined he was a danger to himself and ordered him placed in restraints. Several hours later he was dead. The medical examiner found lethal levels of Benadryl and Zoloft (which were among the drugs prescribed by the doctor) in his blood. His family sued claiming his death was a result of the doctor=s misdiagnosis of his condition and that the medications were prescribed negligently. The Court of Appeals affirmed the trial court=s grant of summary judgment to the defendant, holding the doctor was not deliberately indifferent to the prisoner=s medical needs by treating him with a drug when she knew that he had been hospitalized years earlier for a negative reaction to that drug.

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Right to refuse treatment (see also "Involuntary medication/treatment")

J.L. v. Miller, 174 Vt. 288, 817 A.2d 1 (Vt. Supreme Ct. 2002) (**right to refuse medication**) The Vermont Supreme Court vacates the right to refuse treatment consent decree entered in 1985. The basis for the revocation is the enactment of Act 114 which provides new and different procedures for individuals, including some prisoners, facing involuntary medication.

Briand v. Lavigne, 223 F.Supp.2d 241 (D. Maine 2002) (**sex abuse treatment; parole**) Revocation of parole for failure to participate in sex abuse treatment program did not violate parolee=s confidentiality or 4th Amendment rights.

Reed v. McKune, 298 F. 3d 946 (10th Cir 2002) (**sex abuse treatment; parole**). Inmate=s due process and *ex post facto* rights not infringed by parole board=s denial of parole based in part on inmate=s failure to complete sex abuse treatment program.

Searcy v. Simmons, 299 F.3d 1220 (10th Cir. 2002) (**sex abuse treatment; good time credits**). A ' 1983 challenge to the reduction of privileges and loss of good time credits following the plaintiff=s refusal to participate in sexual abuse treatment program. Program required completion of sexual history form and offered limited confidentiality. Answers on the form were checked by a polygraph test. Summary judgment for the defendants. The court held that the adverse consequences of refusal were not so severe as to amount to compelled self-incrimination.

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Segregation / supermax

Delgado v. Cady, 576 F.Supp. 1446 (E.D.Wis. 1983) (**double celling; mental health**). The court disapproved of coerced double celling of inmates with psychological problems or suicidal tendencies and required the defendants to develop new system for evaluating such prisoners. However, it upheld the housing of psychotic prisoners in the segregation unit. It also found that the numbers of medical, social worker and mental health staff were not unconstitutionally inadequate.

Toussaint v. McCarthy, 597 F.Supp. 1388 (N.D. Cal. 1984), aff'd 801 F.2d 1080 (9th Cir. 1986) (**segregated lock-up units**). Conditions at four California prisons declared unconstitutional.

Eng v. Smith, 849 F.2d 80 (2d Cir. 1988) (**suicide**). The district court did not abuse its discretion in ordering unspecified safeguards for mentally ill inmates in special housing units. Although plaintiffs' evidence focused on a single inmate who committed suicide, there was "sufficient evidence to support the court's findings of systematic deficiencies." The fact that defendants had already implemented most of the ordered procedures did not matter since, without an injunction, there would be nothing to prevent the defendants from abandoning the procedures.

Inmates of Occoquan v. Barry, 717 F.Supp. 854 (D.D.C. 1989) (**screening; segregation; staffing**). The court ordered the defendants to develop a system of mental health screening for incoming inmates. It also ordered that inmates with mental health problems should be placed in a separate housing unit or a hospital, but not in punitive or administrative segregation. In addition, it declared that staffing, including psychiatrists, psychologists, and support staff, was "woefully short."

Madrid v. Gomez, 889 F.Supp. 1146 (N.D.Cal. 1995) (**class action)**. Prisoners in super-maximum security at Pelican Bay Prison filed a class action challenge to various aspects of their treatment and conditions of confinement, including inadequate mental health care. The court held that the mental health program was totally inadequate. Problems included: inadequate staffing; inadequate screening by people without proper training and background; custody staff not trained to identify mental illness; inadequate record-keeping: missing information, poorly maintained; delays in transfer for inpatient and outpatient care; no procedures for necessary involuntary psychiatric treatment; failure to involve mental health staff in housing decisions; no comprehensive suicide prevention program; no Quality Assurance program for mental health staff; grossly deficient treatment, especially in the Security Housing Unit, where there is a severe environment and limited psychiatric services; no inpatient or intensive outpatient treatments, plus delays in transfer to off-site care. In a subsequent, unreported order, the court enjoined the defendants from housing mentally ill prisoners in the security unit.

Jones= El v. Berge, 164 F.Supp. 2d 1096 (W.D. Wis. 2001) **(supermax, preliminary injunction)**. Inmates of super-maximum security facility, who demonstrated more than a negligible chance of success on the merits of their claim that the conditions at facility posed a grave risk of harm to seriously mentally ill inmates in violation of their Eighth Amendment rights, were entitled to preliminary injunctive relief as they would suffer irreparable harm and the public interest would not be served by housing seriously mentally ill inmates under conditions in which they risked irreparable emotional damage and, in some cases, a risk of death by suicide.

Ruiz v. Johnson, 37 F.Supp.2d 855 (S.D.Tex. 1999), rev=d and remanded sub nom. *Ruiz v. US*, 243 F.3d 941 (5th Cir. 2001), on remand *Ruiz v. Johnson*, 154 F.Supp.2d 975 (S.D.Tex. 2001) **(segregation; health care services)**. The defendants, using the PLRA, sought relief from earlier decrees. The trial court, in an 80-page opinion, held portions of the PLRA to be unconstitutional. The court further held that the placement of prisoners in administrative segregation was a violation of the 8th Amendment, that the prisons exhibited deliberate indifference to the safety of prisoners and that prisoners were subjected to excessive force. On appeal, the 5th Circuit reversed the findings related to the PLRA and remanded for further findings. On remand, the district court held that there were ongoing constitutional violations in areas of safety, use of force, and use of administrative segregation, but no violations in provision of health care services.

Ortiz v. Voinovich, 21 F.Supp.2d 917 (S.D. OHIO 2002) (**segregation**). Inmate, in her ' 1983 claim,

failed to show that warden had knowledge of alleged inadequate heat, sanitation and access to medical treatment, while inmate was in segregation. Partial summary judgment entered for defendants. However, case could go forward on disputed facts regarding claim that inmate was sexually assaulted by a guard prior to segregation.

Buford v. Sutten, 2005 WL 756092 (W.D. Wisc. 2005) (**exercise; depression course of treatment**). Court dismissed portions of a *pro se* plaintiff=s complaint and allowed other claims to go forward. Most of the claims regarding restrictions in segregated confinement are dismissed, except the claims that plaintiff was denied exercise for 90 days at a time. Claims that the plaintiff was denied treatment for depression in violation of the Eight Amendment because the prison doctors provided medication but refused to send him to an appropriate facility for treatment was dismissed. Citing *Snipes v. DeTrella*, 95 F.3d 586 (7th Cir. 1996), the court held that a prisoner=s dissatisfaction with the course of treatment does not give rise to a constitutional claim unless the medical treatment is so Ablatantly inappropriate as to evidence intentional mistreatment likely to seriously aggravate the prisoner=s condition.@

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Sex offenders (mental health related issues)

Ohlinger v. Watson, 652 F.2d 775 (9th Cir. 1980) (**right to treatment; denial of release**). Plaintiffs were sentenced sex offenders who could be released only if found to no longer pose a threat of sexual aggression. The court held that they are entitled to "a treatment program that will address their particular needs with the reasonable objective of rehabilitation."

Knight v. Mills, 836 F.2d 659 (1st Cir. 1987) (**right to treatment**). As of 1981, there was no clearly established right to treatment for sex offenders incarcerated for psychiatric reasons.

Patterson v. Webster, 760 F.Supp. 150 (E.D.Mo. 1991) (**denial of treatment; denial of release**). Plaintiffs alleged the sexual offender program they were required to complete before release was not adequately funded or staffed. The court held that "[T]he mere fact that the plaintiffs are convicted sexual offenders does not mean that they have psychological disorders or that they are in need of psychiatric treatment."

Pearson v. Fair, 935 F.2d 40l (lst Cir. l99l) (**sexually dangerous prisoners; seclusion**). Consent decrees governing "sequestration" (seclusion) at a Treatment Center for Sexually Dangerous Persons do not require the application of state procedures governing seclusion in mental hospitals. Nor does the Equal Protection Clause require their application, since the population of the Treatment Center is not identical to that of civil mental hospitals, and since the institution's mission is to protect society from its patients as well as to treat them.

Bailey v. Gardebring, 940 F.2d 1150 (8th Cir. 1991) (**right to treatment**). The plaintiff was civilly committed as a "psychopathic personality" after convicted of sexual abuse and murder of a young girl. This meant that he would remain subject to mental health authorities after completion of his criminal sentence. The court held that the plaintiff was not entitled to psychiatric treatment to overcome his "sexual offender condition." The lack of such treatment did not subject him either to danger or to any restraints beyond the fact of involuntary confinement. Prison officials were not deliberately indifferent to the plaintiff's serious medical needs. Deliberate indifference "presupposes the availability of a cure or at least some accepted form of treatment for the prisoner's medical needs." There was no evidence of a cure or even a generally accepted method of treatment for the plaintiff's disorder.
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Cameron v. Tomes, 783 F.Supp. 1511 (D.Mass. 1992), aff'd in part, rev'd in part 990 F.2d 14 (1st Cir. 1993) (**sexually dangerous; individual treatment planning**). The plaintiff was adjudged a "sexually dangerous person" based on two previous sexual assault convictions and involuntarily committed to a "Treatment Center for the Sexually Dangerous." The court applied the *Youngberg v. Romeo* professional judgment standard, and entered an injunction generally requiring that defendants take into account Cameron's individual mental health and treatment needs, prior to making decisions about him.

Riddle v. Mondragon, 83 F.3d 1197 (10th Cir. 1996) (**denial of treatment for deviancy**). The plaintiff was a sexual deviant who alleged that his condition eroded self-esteem and reinforced fear and feelings of differentness. He also alleged that the available mental health treatment at the prison was inadequate in that the staff psychiatrist only worked five hours per week, that there were only five psychologists on the mental health staff, and that the weekly group therapy session was ineffective. The court held that the plaintiff does not have a serious medical need mandating treatment. He presented no evidence of a diagnosis by a physician of a medical need mandating treatment, nor of a condition which a lay person would easily recognize as necessitating a doctor's attention. "Vague allegations of eroded self-esteem, apathy, fear and feelings of differentness . . . do not amount to the basis for a constitutional claim." Moreover, defendants were not deliberately indifferent since plaintiff received access to a weekly group session, staffed by a psychologist.

Sharp v. Weston, 233 F.3d 1166 (9th Cir. 2000) (**sexually dangerous post-incarceration civil detainees**). Affirming denial of state=s motion to dissolve comprehensive injunction regarding conditions and operations at Washington state facility for civil commitment of sexually violent predators.

Kansas v. Crane, 534 U.S. 407, 122 S.Ct. 867 (2002) (**lack of control determination**). Kansas Sexually Violent Predator Act does not require state to prove offender's total or complete lack of control over his dangerous behavior, but federal constitution does not allow civil commitment under the Act without any lack of control determination.

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Strip searches

Aitken v. Nixon, 2002 WL 31491408 (N.D.N.Y. 2002). ADA, ' 504, and 4th and 14th Amendments challenge to strip and body cavity search policy at Capital District Psychiatric Center. The ADA and ' 504 claims are dismissed as are monetary claims against the defendants in their official capacities. However, plaintiffs (including the NY P&A) may go forward on their claims for equitable relief. With regard to the 4th amendment claims, the court found that, A[g]iven the allegations of the compliant asserting that [the plaintiff=s] search was conducted without probable cause and in a manner, scope, and place which would appear to be unreasonable on the stated facts, and the possibility that this conduct was occasioned by the policy, plaintiffs could establish a constitutional tort.@ The plaintiffs may go forward on the 4th Amendment claim.

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Suicide: right to suicide prevention assessment, monitoring and facilities.

Matje v. Leis, 571 F.Supp. 918 (S.D. OHIO 1983) (**juvenile; jail; knowledge of suicide threat)**. Parent claimed that inadequate supervision in county jail resulted in daughter's suicide. Court personnel had been informed that decedent had threatened to commit suicide by taking drugs she planned to smuggle into jail behind her diaphragm. Nevertheless, a body cavity search was not performed and decedent was placed in the general population rather than the suicide watch cell. She committed suicide the evening

she was convicted. The court held that defendants with personal knowledge of the threats should have taken substantial steps to prevent the suicide and that the county and other officials may be liable for negligent training of jail personnel.

Guglielmoni v. Alexander, 583 F.Supp. 821 (1984) (**prison; knowledge of prior attempts**). Decedent was found hanging by a shoelace in his cell, but was physically unharmed. The psychiatric consultant to the prison determined that it was not a real attempt and prescribed medication. Two months later a similar incident occurred and was adjudged by the psychiatrist to be an attempt to obtain a transfer to a psychiatric hospital. Four days later the inmate succeeded in hanging himself with a shoelace, though he was in segregation and was supposed to be checked frequently. The court held that deliberate indifference exists where prison staff fail to take action when there is "a strong likelihood, rather than a mere possibility, that failure to act will harm the prisoner. Here, defendants were on notice that decedent had attempted suicide twice and so allowing him access to shoelaces may have been deliberate indifference; they should have been guarding him closely and there was no evidence of adequate care.

Partridge v. Two Unknown Police Officers of Houston, 791 F.2d 1182 (5th Cir. 1986) (**jail; knowledge of prior suicide attempt & MH problems**). Parents of pre-trial detainee who committed suicide after three hours in jail sued the city and police department personnel under ' 1983. Police officers were aware that the detainee had mental problems, and that his clinical record in the jail stated that he had attempted suicide during an earlier confinement. The court held that the failure to take any steps to save a suicidal detainee from injuring himself may constitute a due process violation. Plaintiffs state a claim if they can prove the detention center deliberately and systematically lacked adequate care for detainees. The city may be liable if the police department had a custom of inadequately monitoring suicidal detainees and if it inadequately trained jail personnel.

Rogers v. Evans, 792 F.2d 1052 (11th Cir. 1986) (**jail; misdiagnosis**). Psychiatrist misdiagnosed mentally ill jail inmate and prescribed a placebo. He also discontinued treatment after the inmate's family threatened to sue him. She subsequently committed suicide. The court stated that "medical care so inappropriate as to evidence intentional maltreatment or a refusal to provide essential care violates the Eighth Amendment. . . . Whether an instance of medical misdiagnosis resulted from deliberate indifference or negligence is a factual question requiring exploration by expert witnesses." It also stated that in "institutional level challenges to prison health care, systemic deficiencies can provide the basis for a finding of deliberate indifference."

Jones v. County of DuPage, 700 F.Supp. 965 (N.D.Ill. 1988) (**jail; intoxication**). An allegation that jail officials contributed to a jail suicide by failing to notice the arrestee's intoxicated and upset condition, failing to provide medical care, failing to supervise him in his isolation cell, and failing to provide safe bedding, stated a constitutional claim.

Beddingfield v. City of Pulaski, Tenn., 861 F.2d 968 (6th Cir. 1988) (**jail; officer training**). Plaintiff alleged that decedent's suicide resulted from the failure of the city to have jail officers trained at the Tennessee Corrections Institute. The court held the jail training was not constitutionally inadequate because it provided an in-house training program.

Cabrales v. County of Los Angeles, 864 F.2d 1454 (9th Cir. 1988), vacated 490 U.S. 1087 (1989), reinstated, 886 F.2d 235 (9th Cir. 1989) (**jail, shortage of psychiatric staff**). Jail suicide case in which a treatment plan was not fully implemented because of a shortage of psychiatric personnel at the jail. The court held that mere access to medical personnel does not negate deliberate indifference where the staff could only spend "minutes per month" with disturbed inmates. "The district court could conclude that

lack of time and resources meant, in the decedent's case, that any psychological illness he had would go undiagnosed and untreated."

Bird v. Figel, 725 F.Supp. 406 (N.D.Ind. 1989) (**isolation**). Plaintiff had AIDS. Jury could properly find that a "suicide watch" policy was unreasonable where plaintiff was denied a change of clothing, mattress and bedding, personal hygiene materials (soap, towels, wash cloth, toothbrush, toothpaste, shaving items, toilet paper, commissary, visits, papers, pencils, postage, correspondence, all reading material, and drinking water). In addition, guards denied him telephone access, saying they did not have disinfectant to clean the telephone after he used it. They also told him he could drink out of the toilet -- the health hazard did not matter since he would die anyway. Plaintiff awarded both compensatory and punitive damages.

Dorman v. District of Columbia, 888 F.2d 159 (D.C. Cir. 1989) (**jail**). An arrestee "fell asleep a couple times" during booking but said he was just tired; the police computer showed prior arrests but no prior suicide attempts. He hanged himself. A jury awarded $300,000 to the estate. The court held that the evidence was insufficient to support municipal liability. Police officers are trained both in the Police Academy and in a local hospital to detect "abnormal behavior and suicidal tendencies" and intake officers are instructed not to accept such inmates, to take away dangerous objects, and to check the cells every 30 minutes. The municipality also has a computer record of suicide attempts. Suicide risks are to be protected by additional steps including "shackling and closer supervision." There was no pattern of regular or frequent custodial suicides to which staff responded inadequately. The plaintiff's behavior was not so bizarre as to put the officer on notice that he was suicidal. Thus, even if there had been more elaborate suicide prevention training, it may not have prevented this suicide.

Williams v. Borough of West Chester, Pa., 891 F.2d 458 (3d Cir. 1989) (**police lockup; known history of suicide attempts**). The decedent hanged himself in a police lockup with his belt, which should have been removed under police policy. His history of bizarre suicide attempts was well known to the 35-member police department, including other members of the defendant officers' platoon, and had been read at roll call. The defendant officers were entitled to summary judgment because they denied knowing anything about the decedent's history and there was no direct evidence to the contrary (e.g., it could not be proved they had been present at any of the roll calls). The police dispatcher on duty at the time of the suicide, who did know of the decedent's history, was entitled to summary judgment because he had no custodial responsibility and could not easily see the cell where the suicide occurred.

Capodagli v. Wilson, 180 Ill.App.3d 456, 536 N.E.2d 135 (1989) (Ill.App.Ct., 1st Dist. 1989) (**jail; intoxication; cell checks**). Police chief and subordinates violated no constitutional right of deceased who killed himself in jail; police did not install surveillance system, failed to have inmate medically examined despite his obvious intoxication, and violated their own established procedures calling for cell checks every half hour.

Hamlin v. Kennebec County Sheriff's Dept., 728 F.Supp. 804 (D.Me. 1990) (**jail; intoxication**). In violation of policy, defendants placed alcoholic who was arrested for drunken driving in a cell without taking his boot laces. He tried to hang himself. At most, defendants were negligent for failing to remove the laces or for failing to adequately evaluate his suicidal potential.

McDay v. City of Atlanta, 740 F.Supp. 852 (N.D.Ga. 1990), aff=d 927 F.2d 614 (11th Cir. 1991) (**jail; use of police gun left unattended)**. The decedent was arrested for murder and left unattended in a police station lobby; he went into the arresting officer's office, picked up the murder weapon, which the officer had left on top of his desk, and shot himself in the head. The court held that the individual officers, while

surely negligent, were entitled to summary judgment because they had no prior knowledge that the plaintiff was a suicide risk. The municipality was entitled to summary judgment because there was no evidence of a policy of inadequate training or any other municipal policy that caused the suicide.

Zwalesky v. Manistee County, 749 F.Supp. 815 (W.D.Mich. 1990) (**jail; detoxification cell**). Qualified immunity granted to jail officials who were sued after very disturbed detainee hung himself with his shirt in a detoxification cell. The court stated: "The 'right' that is truly at issue in the present case is the right of a detainee to be screened for suicidal tendencies and to have steps taken that would prevent him from taking his own life." This right was not clearly established. The court also held that the defendants were entitled to qualified immunity under the "professional judgment" standard.

Greason v. Kemp, 891 F.2d 829 (11th Cir. 1990) (**prison; anti-depressants**). The court denies qualified immunity to a prison psychiatrist who abruptly discontinued decedent's anti-depressants based on a single interview of a few minutes' length and without reviewing his clinical file. It held that psychiatric care that is "grossly inadequate" by professional standards is actionable. In addition, the failure of a "mental health team leader" to monitor the decedent after being warned by his parents and other inmates that he had tried to commit suicide could constitute deliberate indifference. The clinical director of the prison could be found deliberately indifferent based on evidence that the psychiatric staff was "clearly inadequate," and that he had failed to act on his subordinates' complaints. The director of mental health for the state prison system could be found deliberately indifferent because he was "aware of," but did nothing to remedy, conditions that could "lead to grossly inadequate mental health care," e.g., lack of mental health treatment plans, lack of policies and procedures for suicide prevention, and inadequate psychiatric staff. The prison warden could also be found deliberately indifferent because he was "responsible for ensuring that all services . . . were properly provided" and he knew or should have known about the inadequacy of psychiatric staffing.

Lewis v. Parish of Terrebone, 894 F.2d 142 (5th Cir. 1990), reh.den. 901 F.2d 1110 (1990) (**jail; knowledge of prior attempt**). The decedent committed suicide in solitary confinement. The warden knew the decedent had said he wanted to die and that he had previously taken an overdose of pills. A psychiatric examination had been ordered and performed, but was not read until after the suicide. It warned of the danger of suicide and recommended close observation. The court held that these facts supported a finding of deliberate indifference, and that the sheriff was not entitled to qualified immunity; the "constitutional duty to protect a prisoner prone to suicide from self-destruction" is clearly established.

Belcher v. Oliver, 898 F.2d 32 (4th Cir. 1990) (**jail**). Officers not liable for suicide of arrestee who appeared to be in good spirits when placed in cell. There was no evidence that the man was in need of medical attention. Jail officers found no indication in their records that he was an habitual alcoholic, but found no such indication. The court stated that the "general right of pretrial detainees to receive basic medical care does not place upon jail officials the responsibility to screen every detainee for suicidal tendencies." The failure to remove his belt was at most negligent, but did not constitute deliberate indifference.

Burns v. City of Galveston, Texas, 905 F.2d 100 (5th Cir. 1990) (**jail; intoxication; no screening**). Drunken arrestee behaved bizarrely and then killed himself. Evidence showed he had threatened to kill himself if he didn't get a cigarette, but the officers testified that, because of other noise in the jail, they did not understand what he was yelling. Another prisoner was told to be quiet after he called out to the officers when he saw the decedent hanging. The court held that the failure to implement psychological screening procedures contained in a municipal manual did not support municipal liability because there is no "absolute right to psychological screening." Officers need not be trained to screen for suicidal

tendencies because this "requires the skills of an experienced medical professional with psychiatric training."

Popham v. City of Talladega, 908 F.2d 1561 (11th Cir. 1990), aff'g 742 F.Supp. 1504 (N.D.Ala. 1989) (**jail; camera surveillance**). The plaintiff was arrested for public intoxication. He was emotional, depressed, and angry. His belt and shoes were taken and his cell was ordered monitored by TV, but he hanged himself with his blue jeans in a part of the cell out of view of the camera. The court held that in the absence of knowledge of a detainee's suicidal tendencies, the "fact that the camera did not pick up every corner of the cell might be evidence of negligence, but could hardly demonstrate deliberate indifference."

Leshore v. County of Worcester, 945 F.2d 471 (1st Cir. 1991) (**jail; non-psychiatrist removing from suicide watch**). The decedent was taking antipsychotic medication before his arrest. Jail nurse reported this to mental health personnel. A mental health staff member granted his request to be taken off suicide watch after he claimed he was no longer contemplating suicide. He killed himself five days later. Jury instructions focusing on the need for psychiatric care on the day of the suicide did not constitute plain error, since it did not preclude a jury finding that the detainee's earlier manifestations were so severe that the defendants should have known that he continued to need treatment. Jail officials must provide psychiatric care through an adequately trained professional, and it is for the jury to decide whether a non-psychiatrist, like the defendant social worker, was adequately trained.

Colburn v. Upper Darby Township, 946 F.2d 1017 (3rd Cir. 1991) (**police lockup; intoxication**). The decedent was arrested for public intoxication and shot herself in the police lockup. The police had allegedly found a bullet in her pocket during a pat frisk. The court stated that a plaintiff in a prison suicide case has the burden of establishing that: (1) the detainee had a "particular vulnerability to suicide;" (2) the custodial officer knew or should have known of that vulnerability; and (3) the officers "acted with reckless indifference" to the detainee's particular vulnerability. The court stated that custodians may "know" of a vulnerability to suicide when they have actual knowledge of an obviously serious suicide threat, a history of suicide attempts, or a psychiatric diagnosis identifying suicidal propensities. The failure to hold intoxicated detainees in a detoxification facility, or to subject them to around-the-clock personal surveillance, does not constitute a policy of deliberate indifference. The municipality cannot be held liable for its training program in the absence of evidence that specific training could reasonably be expected to prevent the suicide, and a showing that the risk reduction associated with the training is so great that the failure to institute it constitutes deliberate indifference.

Kocienski v. City of Bayonne, 757 F.Supp. 457 (D.N.J. 1991) (**jail; known history of psychology problems**). Arrestee with a known history of psychological problems killed herself within a short time of arrest. The failure to check her cell more frequently than every 24 minutes did not constitute deliberate indifference, nor did the failure of an officer to pass on information about her psychiatric history.

Christian by and through Jett v. Stanczak, 769 F.Supp. 317 (E.D.Mo. 1991) (**jail; intoxication**). The decedent was arrested while drunk and hanged himself in jail. The court held that to prevail in a jail suicide case, "plaintiffs must establish that defendants displayed deliberate indifference to a strong likelihood, rather than a mere possibility, that the prisoner would attempt suicide." The arresting officer was not deliberately indifferent in failing to warn jail personnel that the decedent was a suicide risk because he was told only that the decedent had made a vague reference to suicide, unaccompanied by any history of suicide attempts or suicidal ideation. A jail officer's failure to turn on a camera may have been negligent but was not deliberate indifference.

Trask v. County of Strafford, 772 F.Supp. 42 (D.N.H. 1991) (**jail; no knowledge**). Defendants were not liable in a jail suicide case where there was no evidence that they knew or reasonably should have known of the plaintiff's suicidal tendencies. Failure to follow rules concerning classification, supervision of inmates, or shower facilities would establish negligence at best.

Hinkfuss v. Shawano County, 772 F.Supp. 1104 (E.D.Wis. 1991) (**jail; prior attempt**). The decedent, who hanged himself in 1989, had attempted suicide in jail in 1986 but had not done so on the ten subsequent occasions he had been jailed. The municipality could not be held liable in the absence of a policy of not reviewing records of prior incarcerations. The failure to comply with a policy of reviewing such records was negligence at worst. A policy of allowing jailers to decide which requests for medical attention were emergencies that required hospital treatment did not constitute deliberate indifference. Nor was the failure to respond to the decedent's complaints, since these complaints were "not specific or urgent."

Buffington v. Baltimore County, Md., 913 F.2d 113 (4th Cir. 1991) (**jail; handcuffing to rail**). Evidence demonstrates that jail suicide was proximately caused by individual officer's failure to follow county policy of handcuffing known suicide risks to rail near precinct's booking desk and not, as plaintiff alleged, by failure to train officers. Although better training would be desirable, this is not enough to support a jury verdict against the municipality.

Dobson v. Magnusson, 923 F.2d 229 (1st Cir. 1991) (**prison; deficient monitoring**). An officer who had no notice of a prisoner's suicidal tendencies could not be held liable for his death. An officer who left the prisoner unobserved for 45 minutes after he was placed on a 15-minute watch may have been "forgetful" but was not deliberately indifferent, since the psychologist had not called for a suicide watch but had only warned of "self-injurious behavior . . . without lethal intent."

Torraco v. Maloney, 923 F.2d 231 (1st Cir. 1991) (**prison; earlier drug overdose**). Prison officials were not liable for the suicide of a prisoner who received two evaluations for suicide risk, was admitted to a substance abuse program a month after he asked for it, and received individual counseling from the prison psychologist on a weekly basis until the day before his death (at which session the psychologist agreed to see him more often). The failure to provide treatment from a psychiatrist, rather than a psychologist, was not deliberate indifference. The failure to place the prisoner on a suicide watch after a drug overdose that he insisted was not an attempt to harm himself also did not constitute deliberate indifference.

Rellergert v. Cape Girardeau County, Mo., 924 F.2d 794 (8th Cir. 1991) (**jail; delayed response to hanging**). The decedent was paroled on condition that he stay employed; he was laid off and his parole was immediately revoked. Upon his return to jail, he indicated that he had attempted suicide in the past. He was then interviewed by a social worker who concluded that he did not have suicidal symptoms and did not need mental health treatment. Nonetheless, pursuant to the jail's suicide prevention policies, he was placed in an area of the jail that was easily observable. Another inmate found him hanging from a sheet in the shower and reported this to an officer. Jail policy prohibited the officer from leaving his post so he had to call for assistance. The court held that although the officer's conduct might have been negligent, there was no deliberate indifference.

Wayland v. City of Springdale, Ark., 933 F.2d 668 (8th Cir. l99l) (**jail**). The decedent was arrested, held for six days without an indictment or probable cause hearing, and hanged himself from an air vent. He had displayed no prior "unusual emotions or suicidal tendencies." The failure to take corrective action five years after another prisoner had hanged himself from the air vent "could not establish anything other than negligence."

Bell v. Stigers, 937 F.2d 1340 (8th Cir. 1991) (**jail; suicide threat**). Plaintiff was arrested for drunk driving and tried to hang himself with his belt. During booking, he said to jail officer, "Well, I think I'll shoot myself." The officer did not believe he was serious, and, in violation of the jail rules, failed to confiscate his belt or to check the suicide threat box on the intake form. The court held that a "single off-hand comment about shooting oneself when no gun is available cannot reasonably constitute a serious suicide threat." The court discusses the facts that tend to establish an increased risk of suicide--prior psychological counseling, unusual behavior, prior suicide attempts, or expressions of suicidal tendencies--but held that jail officials are not liable for knowledge of a prisoner "suicide profile." The defendant's conduct was negligent at worst.

Elliott v. Cheshire County, N.H., 940 F.2d 7 (1st Cir. 1991) (**jail; verbal threats to kill self**). Decedent, who was mentally ill, was arrested for A&B against his parents and committed suicide. Inmate affidavits stating that they heard the decedent threaten to kill himself and reported the threats to jail officers raised a factual question barring summary judgment. "The key to deliberate indifference in a prison suicide case is whether the defendants knew, or reasonably should have known, of the detainee's suicidal tendencies." The municipality could not be held liable for inadequate training where they had instituted procedures and services for dealing with known suicide risks.

Simmons v. City of Philadelphia, 947 F.2d 1042 (3d Cir. 1991) *cert. denied*, 503 U.S. 985 (1992) (**jail; intoxication; lack of monitoring; failure to train**). The decedent was arrested for public intoxication, was placed in a cell alone and with only intermittent surveillance, and hanged himself with his trousers. The court upheld jury verdicts against the city. The record supported the view that the City's deliberate indifference caused the decedent's suicide, since he was left alone in a cell block with no audio-visual monitoring. The plaintiff's failure to train theory was supported by evidence that the City had done some training in 1981, but that not all relevant personnel received it, and the officer on duty had only the vaguest recollections of this training. Since jail suicides, "although small in yearly numbers, were regular in occurrence," the need for more training was sufficiently obvious.

Marshall v. Borough of Ambridge, 798 F.Supp. 1187 (W.D.Pa. 1992) (**jail; failure to confiscate belt; failure to train**). The individual police defendants in this jail suicide case could not be found deliberately indifferent in the absence of any evidence that they knew or should have known of the plaintiff's suicidal tendencies. The court held that "should have known" means that the likelihood of suicide was "so obvious that a lay person would easily recognize the necessity for preventive action." That the decedent was "agitated, upset and perhaps intoxicated" is not enough. The failure to remove the plaintiff's belt was negligent at worst. The municipality was not entitled to summary judgment on the plaintiff's failure to train claim, since it conceded that it had no written policy; its claim of oral training by the police chief and of financial problems that limited available training were for the jury. Without reliable information on the numbers of suicides, the municipality was not entitled to summary judgment on the plaintiff's claim that there was a custom or policy of failing to respond to a known risk of suicide by promulgating appropriate regulations.

Barber v. City of Salem, Ohio, 953 F.2d 232 (6th Cir. 1992) (**jail; intoxication**). The decedent was arrested for drunk driving and hanged himself with his blanket in a completely unsupervised cellblock. There had been two prior suicides of this nature in the jail and the coroner had recommended more frequent observation, removal of blankets, not placing prisoners in cells alone, and covering the horizontal bars. The court held that, as of 1982, there was no clearly established right to suicide prevention screening or facilities. To establish an unconstitutional failure to prevent jail suicide plaintiff must show "a strong likelihood that he would attempt to take his own life in such a manner that failure to

take adequate precautions amounted to deliberate indifference to the decedent's serious medical needs."

Schmelz v. Monroe County, 954 F.2d 1540 (11th Cir. 1992) (**jail; suicide watch**). The plaintiff was arrested and went into an irreversible coma after he hanged himself in jail. There was no indication of any prior suicidal threats. The court held that the failure to remove the blanket and an officer's brief absence was not sufficient to warrant a finding of deliberate indifference. The Sheriff's unwritten policy calling for efforts to identify and protect potentially suicidal inmates was not constitutionally deficient. The jail staff was not deliberately indifferent since they placed plaintiff on a suicide watch.

Hall v. Ryan, 957 F.2d 402 (7th Cir. 1992) (**jail; suicide history**). It was clearly established in 1986 that deliberate indifference to a detainee's risk of suicide is unconstitutional. Although detainee's bizarre behavior did not by itself put police on notice of his condition, he had been arrested 28 times and detained 9 times previously and had been involved in a well-publicized suicide threat, and the arrest report prepared just before his suicide referred to his suicidal history.

Manarite v. City of Springfield, Mass., 957 F.2d 953 (1st Cir. 1992), *cert. denied*, 506 U.S. 837 (1992) (**city holding facility; failure to confiscate shoelaces**). Prisoner hung himself with his shoelaces while held in protective custody in city drunk tank. A written policy required removal of shoelaces. The court held that plaintiff had failed to establish deliberate indifference because, while the failure to follow the policy may have been negligent, deliberate indifference requires more than ordinary negligence and probably also more than gross negligence. The court anticipates the Supreme Court decision in Farmer v. Brennan, 114 S.Ct. 1970 (1994), by suggesting that deliberate indifference is akin to "recklessness" in the criminal context.

Heflin v. Stewart County, Tenn., 958 F.2d 709 (6th Cir. 1992) (**prison hanging; failure to cut down**). Officer who found detainee hanging in cell did not cut him down, but called for medical assistance. Plaintiff's expert testified that the deceased would have had a 95% chance of survival had he been cut down when first found. A jury issue as to deliberate indifference was created by expert evidence that the officers' training, and every other training program the expert knew of, directed jail staff to presume hanging victims are alive and cut them down immediately.

Tittle v. Jefferson County Commission, 966 F.2d 606 (11th Cir. 1992) (**jail; hazardous condition enabling suicides**). The decedents were arrested; the jail's suicide screening procedure revealed no cause for concern; they both hanged themselves. There had been 27 attempts and two suicides at the jail during the previous 18 months. The court held that the municipality was not liable for failure to train because it maintained a "significant screening procedure to identify and segregate prisoners with mental health problems," even if it did not utilize "the best available methods." Evidence of a known history of jail suicides by hanging from a horizontal bar raised an issue of material fact as to the municipality's deliberate indifference. "The question whether these particular inmates had exhibited suicidal tendencies is irrelevant because the basis of the claim is that the jail itself constituted a hazardous condition and that the defendants were deliberately indifferent to that danger."

Gordon v. Kidd, 971 F.2d 1087 (4th Cir. 1992) (**jail; suicide threats**). The decedent had a history of alcohol abuse, mental illness, and depression. He hanged himself in jail on the same night that he had threatened to kill himself and had threatened police officers. In jail suicide cases officials are not liable unless they had prior knowledge of the prisoner's suicidal tendencies. There is no duty to screen detainees for suicidal tendencies without such knowledge. An officer who was told of the suicide risk but failed to make a note of it, call the jail nurse to screen the decedent, or tell anyone else about the risk could be found deliberately indifferent since, "[i]n the jail suicide context, [i]ndifference is apathy or

unconcern."

Rhyne v. Henderson County, 973 F.2d 386 (5th Cir. 1992) (**jail; monitoring**). The mother of a detainee who committed suicide in jail sued the municipality. The court held the fact that the jail staff did not exercise skill and good judgment did not establish a policy of inadequate training; and there was no evidence about their level of training. A policy of observing suicidal inmates every five to ten minutes rather than continuously did not constitute deliberate indifference. Nor did the jail officials' failure to seek commitment orders for suicidal detainees reflect a policy of deliberate indifference.

Bragado v. City of Zion, 788 F.Supp. 366 (N.D.Ill. 1992) (**suicide**). Plaintiff's decedent hanged herself in jail. Her sisters had notified the police of her suicidal condition. She had written a note stating that her "life is over now," and threatened to kill herself while in her cell. In addition, defendants violated several aspects of the Illinois Municipal Jails and Lockup Standards. The court held that it was clearly established in 1988 that "the 'deliberate indifference' standard applied to the handling of suicidal pretrial detainees, and that failure to take special precautions toward such detainees could violate that standard."

Perkowski v. City of Detroit, 794 F.Supp. 223 (E.D.Mich. 1992) (**jail**). In the absence of a "strong likelihood" that the decedent would kill himself, jail officials could not be held liable for a jail suicide.

Boggs v. Jones, 961 F.2d 1583 (11th Cir. 1992) (**jail; threat to kill self**). Detainee told jailer that he would kill himself if not removed from isolation cell, to which jailer responded that detainee could "go ahead and just hang himself." This raised an issue of material fact whether jailer was deliberately indifferent to suicide risk, thus precluding summary judgment for jailer. However, there was no evidence of any policy or pattern that would establish liability of county or sheriff, or that the sheriff was personally aware that the detainee was suicide risk.

Rich v. City of Mayfield Heights, 955 F.2d 1092 (6th Cir. 1992) (**jail, qualified immunity)**. In a jail suicide case, the defendant officer was entitled to qualified immunity for running to get help rather than immediately cutting down the prisoner. It was clearly established that a detainee "had a due process right to adequate medical care, even if his injuries were self-inflicted." Detainee had a right "to have medical assistance summoned immediately upon the police officers becoming aware that he was in need of immediate medical care." That right was not violated.

Bowen v. City of Manchester, 966 F.2d 13 (1st Cir. 1992) (**suicide**). Decedent was arrested for selling cocaine to an undercover officer. When informed that his bail had been raised, he appeared shocked and nervous. He told the investigating officers that it was his first time in trouble, and also inquired about his charge and possible sentence. The police officer in charge of the holding cell left the station for about fifty minutes in violation of written procedures that required fifteen minute checks of the detainees. While the officer was absent, the decedent hanged himself. The court held that to establish deliberate indifference in a jail suicide case the plaintiff must show (1) an unusually serious risk of harm (self-inflicted, in a suicide case), (2) defendants' actual knowledge of, or willful blindness to that elevated risk, and (3) defendants' failure to take obvious steps to address the risk. Here, it found that (1) even if the officers had more extensive training regarding lockup suicides, the decedent's behavior would not have alerted them that he was at special risk, and (2) the actual practices at the Police Department, which included a nominal 15 minute check sometimes punctuated by longer periods, a video monitoring system that watched the hallway between the cells but not the cells themselves, cell doors that had not been modified following another suicide three years earlier by substantially the same method, etc., probably amounted to negligence or gross negligence, but did not constitute deliberate indifference.

Herman v. Clearfield County, Pennsylvania, 836 F.Supp. 1178 (W.D.Penn. 1993) (**jail; obvious suicide intent**). Estate of pretrial detainee who committed suicide alleged that jail officials failed to identify and treat decedent's obvious suicidal intent and that county consciously followed policy or custom of failing to train jail employees. The court granted summary judgment to defendants because: (1) a difference of medical opinion concerning detainee's suicidal intent precluded finding of deliberate indifference to detainee's serious medical needs, and (2) jail officials were adequately trained in suicide prevention.

Natriello v. Flynn, 837 F.Supp. 17 (D.Mass. 1993) (**wrongful death**). Prisoner committed suicide in a county house of correction. The jury awarded $500,000 in a wrongful death suit brought by his family. The court reduced the verdict to $100,000, the maximum award permitted under the state wrongful death statute, since an action for wrongful death is not available under ' 1983.

U.S. v. Neshoba County, Miss., CA No. 4:94CV106LN (S.D. Miss. Sept. 19, 1994) (**CRIPA**). This is one of many cases brought by the Department of Justice under CRIPA challenging conditions in certain Mississippi jails. With respect to mental health, the decree mandates, *inter alia*, that the county adopt a variety of suicide prevention measures, including screening and monitoring of suicidal inmates, training to staff on recognizing mental illness and suicide prevention, and a prohibition on the use of mace against suicidal inmate. It also requires the county to hire a nurse to administer medication, and either a psychiatrist, psychologist, or psychiatric nurse (with appropriate psychiatric back-up) to provide additional services.

Belcher v. City of Foley, Alabama, 30 F.3d 1390 (11th Cir. 1994) (**jail; request for MH care**). At time arrestee committed suicide in jail cell, the law did not clearly establish that police officers' failure to notify jailers of his request for medical and psychiatric help constituted deliberate indifference.

Viero v. Bufano, 901 F.Supp. 1387 (N.D.Ill. 1995) (**juvenile; depression**). Decedent was a juvenile diagnosed as suffering from major depression. He had also "expressed suicidal ideation during psychological and social work evaluations" while hospitalized prior to his transfer to the Department of Correction. During intake, the department was advised of the juvenile's mental history, medication needs and suicidal thoughts. It failed to assure that he received his medication, and no one informed the mental health staff of his medical history or took measures to ensure that he received adequate counseling and observation. He subsequently committed suicide. The court held the complaint sufficiently alleged deliberate indifference to both a substantial suicide risk and a serious medical need in order to survive a motion for summary judgment.

Williams v. Lee County Alabama, 78 F.3d 491 (11th Cir. 1996) (**jail; knowledge of illness**). The decedent had committed himself for treatment for drug abuse. After leaving the facility without authority, he was taken into custody and held at the county jail pending transfer to a treatment facility. The Sheriff's Department had information that he was mentally ill, and that "he poses a real and present threat of substantial harm to himself and to others." Decedent told an officer "I'm not going to make it. If I don't do it myself, somebody else will." Fifteen minutes later the officer discovered him hanging by a sheet from a sprinkler in the ceiling. The court affirmed the grant of summary judgment for defendants, holding: (1) the sheriff was not deliberately indifferent because he knew nothing of plaintiff's condition other than that he had been committed from the hospital; and (2) there was no basis for the claim of insufficient training and supervision of jail personnel because suicide prevention was covered both by the staff training manual and an instructional video shown to staff; moreover, procedures were in place for evaluating inmates for mental health problems.

Sanville v. McCaughtrey, 266 F.3d 724 (7th Cir. 2001) (**prison inmate refusing to accept medication**).

Mentally ill state prison inmate's medical condition was "objectively, sufficiently serious," for purpose of his mother's ' 1983 action alleging that prison officials subjected him to cruel and unusual punishment, in violation of the Eighth Amendment, by incarcerating him under conditions that posed a substantial risk that he would commit suicide, in light of fact that harm actually materialized when inmate committed suicide in his cell. The inmate had refused to accept medication.

Comstock v. McCrary, 273 F. 3d 693 (6th Cir. 2001) *cert. denied*, 123 S.Ct. 86 (2002) (**prison, knowledge of risk**). Personal representative of prisoner's estate brought ' 1983 action against prison's medical personnel after prisoner committed suicide while in prison. The District Court denied defendants' motion for summary judgment based on qualified immunity. Defendants appealed. The Court of Appeals held that evidence was sufficient to establish that prison psychologist subjectively perceived, and that he was deliberately indifferent to risk, that prisoner might commit suicide; and prisoner's constitutional right to continuing medical treatment, once he had been determined to be suicidal, was clearly established.

Pelletier v. Magnusson, 2002 WL 1465908 (D.Me. 2002) (**prison; access to belts & shoelaces**). The decision by the Aprogressive@ director of the Mental Health Stabilization Unit at the Maine State Prison to allow the decedent and all other inmates of the unit to have belts and shoelaces may have been ill-advised and even negligent, but it was not a decision motivated by deliberate indifference. Although some of the prisons treatment records Ahave gone missing,@ the court declines to draw any inference from this fact.

Clark v. Prison Health Services, Inc., 2002 WL 31255444 (Ga. Ct. of Appeals 2002) (**jail; knowledge of MH issues**). Intake screening and assessment identified the decedent as needing a mental health referral. The referral form apparently was lost. A subsequent classification profile did not mention mental health issues. The decedent was not seen by a mental health staff person and within five days, hung himself. Although the appellate court dismissed the intentional infliction of emotional distress claims, it held that the acts of the classification officer and the county defendants were not protected by qualified immunity and allowed portions of the case to go forward.

Woodward v. Myers, 2002 WL 31744663 (N.D.Ill. 2002); eventual jury verdict for plaintiff affirmed, 368 F.3d 917 (**detainee**). The intake form for a new pretrial detainee included the notation Aexpresses thoughts of killing self.@ The defendant nurse claims she was not deliberately indifferent to the detainee=s serious mental health needs because she interpreted the note to mean that he had prior rather than current suicidal thoughts. The court found a sufficient question of fact to deny her motion for summary judgment. Similar findings results in the denial of a social worker=s and a doctor=s motions. The deliberate indifference standard, in the context of a suicide, is described as requiring that a prison official Amust be cognizant of the sufficient likelihood that an inmate may imminently seek to take his own life and must fail to take reasonable steps to prevent the inmate from performing this act.@

Ginest v. Board of Cnt=y Comms. of Carbon Cnt=y, 333 F. Supp. 2d 1190 (D. Wyom. 2004) (**jail; class action**). County jail inmate class sought an order finding defendants in contempt of a consent decree governing inmates= medical care. Their motion for summary judgment was met by defendants= motion to terminate the consent decree. The court found that the Eight Amendment had been violated by inadequate medical care and record keeping and inadequate policies and staff training. Among other deficiencies were the lack of training in suicide prevention (and no written policy on suicide prevention) and that potentially suicidal inmates were often isolated physically and provided little or no mental health counseling. The motion to terminate the decree is denied.

Woodward v. Correctional Medical Services of Ill., 368 F.3d 917 (7th Cir. 2004) **(detainee; lax training;**

failure to comply with policies). Estate of 23 year old pretrial detainee who committed suicide by hanging himself with a bed sheet won a jury verdict of $250,000 plus $1.5 million in punitive damages from CMS and its agent health care workers upon a finding of deliberate indifference to the detainee=s health and safety. The 7th Circuit affirmed. CMS was the county=s contractor for medical and mental health services. CMS had a suicide evaluation policy. However, Adespite explicit recognition that the risk of suicide presented a unique and critical problem in a jail, the evidence at trial showed that CMS routinely failed to comply with its own directives on how risks were assessed and monitored.@ Among other damaging evidence, there was evidence of lax training and of a nurse who was under the influence of drugs.

DiPace v. Goord, 308 F.Supp. 2d 274 (S.D. NY 2004) (**prison; failure to attempt resuscitation**). Failure of a correction officer to attempt to resuscitate an inmate whom he found hanging in his cell did not violate any clearly established constitutional right of the inmate, for qualified immunity purposes, given that the staff believed the inmate was dead and reasonably expected that emergency help was on the way. Likewise, similar failure of officers and nurse responding to the emergency did not violate any clearly established constitutional right in light of conflicting case law and absent evidence that inmate actually had a pulse or was breathing at the time they arrived.

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Transfer to mental health hospital

Vitek v. Jones, 445 U.S. 480, 100 S.Ct. 1254 (1980) (**involuntary transfer: due process required)**. The involuntary transfer of a prisoner to a mental hospital implicates a liberty interest. Due process requires notice and the opportunity for an adversarial hearing before an impartial decision-maker at which the prisoner may present and cross-examine witnesses, have assistance of a qualified advisor, and receive a written decision.

Baugh v. Woodard, 604 F.Supp. 1529 (E.D.N.C. 1985) (**transfer to MH facility within prison system: due process required)**. State prisoners have liberty interest in avoiding transfer to mental health facility, even if it is within prison system, and therefore are entitled to the due process protections set forth in Vitek v. Jones.

Okumoto v. Lattin, 649 F.Supp. 55 (D.Nev. 1986) (**transfer to psych unit within prison system**). Plaintiff alleged violation of Vitek v. Jones due process rights based on his involuntary transfer from one correctional facility to a psychiatric unit at another facility. The court denied his motion for summary judgment because there were factual questions whether the move rendered his treatment outside the range of conditions of confinement to which a prison sentence subjects an individual.

Jackson v. Fair, 846 F.2d 811 (1st Cir. 1988) (**transfer back to prison from hospital**). A prisoner committed to a mental hospital has no liberty interest in staying there under Massachusetts law and may be returned to prison without a hearing. Returning the plaintiff to prison did not violate the Eighth Amendment where defendants produced undisputed evidence of adequate psychiatric care in prison.

Gay v. Turner, 994 F.2d 425 (8th Cir. 1993) (**temporary transfer**). Temporary transfer of inmate to mental hospital did not warrant full due process procedural protections, and prison officials were entitled to qualified immunity on plaintiff's claim that she was forcibly injected with psychotropic drugs in violation of her due process rights.
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Bradley v. Hightower, No. 92-A-70-N (M.D. Ala. 1997) (magistrate judge=s recommendation) (**delay in transport to secure medical facilities**). When CMS became the contractor for mental health services in Alabama prisons, it sought to deal with very long delays in transferring inmates with mental illness to secure medical facilities by eliminating hospital care as an option. The magistrate judge found the prisons lacked the adequate beds and staff. The court found Athe CMS system for delivering mental health services to acutely and seriously mentally ill inmates has simply shifted rather than cured the problems [very long delays] of the previous system. There is still a pervasive risk of non-treatment and harm.@ Declaratory judgment entered and a remedial plan was ordered. (As of June 2000, no plan had been submitted which satisfied plaintiffs= counsel.)

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Transsexual inmates' mental health needs

Supre v. Ricketts, 792 F.2d 958 (10th Cir. 1986) (**estrogen therapy & mental health treatment**). Plaintiff was a transsexual who sought estrogen therapy for her condition. The prison doctors prescribed testosterone replacement therapy and mental health treatment consisting of a program of counseling by psychologists and psychiatrists. Given the wide variety of options available for the treatment of the plaintiff's psychological and physical medical conditions, the court refused to hold that the decision not to provide the plaintiff with estrogen violated the Eighth Amendment. Plaintiff was not entitled to the treatment of her choice so long as some treatment for gender dysphoria was provided.

Meriwether v. Faulkner, 821 F.2d 408 (7th Cir. 1987) *cert. denied,* 484 U.S. 935 (1987) (**estrogen therapy & mental heath treatment**). Plaintiff sought estrogen therapy for trans-sexualism or gender dysphoria. The court found that plaintiff had a "serious" medical need even though her condition was not perilous or life-threatening. It held that trans-sexualism is recognized by the medical profession as a "complex medical and psychological problem," and that there is "no reason to treat trans-sexualism differently than any other psychiatric disorder. However, the plaintiff did not have a right to any particular type of treatment, such as estrogen therapy, provided that some other treatment option was made available.

Farmer v. Carlson, 685 F.Supp. 1335 (M.D. Md. 1988) (**estrogen therapy & mental health treatment**). Transsexual sought estrogen therapy and psychiatric care. Court held that the defendants were not deliberately indifferent because prison doctors believed that hormone treatment was dangerous and the condition should be treated with psychotherapy. While there was a two month delay in responding to plaintiff's request for psychiatric treatment, he was examined and received medication during this period.

White v. Farrier, 849 F.2d 322 (8th Cir. 1988) (**right to treatment**). The court held that trans-sexualism is a legitimate psychological disorder that should be treated like any other disorder. Fact issues whether plaintiff was a transsexual and whether officials were deliberately indifferent to his medical needs precluded summary judgment.

Phillips v. Michigan Department of Correction, 731 F.Supp. 792 (W.D.Mich. 1990) (**estrogen therapy & mental health treatment**). Plaintiff was an alleged transsexual who sought to continue estrogen treatment. The court ruled that she had a "serious medical need" within the meaning of the Eighth Amendment prohibition against cruel and unusual punishment, whether the proper diagnosis of her condition was trans-sexualism or gender identity disorder. Departing from decisions in other cases, it held she was entitled to a preliminary injunction ordering correctional officials to provide her with estrogen therapy.
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Farmer v. Brennan, 511 U.S. 825, 114 S.Ct. 1970 (1994) (**rapes by other prisoners**). Prisoner who was transsexual brought *Bivens* suit against prison officials, claiming officials showed "deliberate indifference" by placing prisoner in general prison population, thus failing to keep him from harm allegedly inflicted by other inmates. The District Court entered judgment for the officials and appeal was taken and the Seventh Circuit affirmed. The Supreme Court held that: (1) prison officials may be held liable under Eighth Amendment for denying humane conditions of confinement only if they know that inmates face substantial risk of serious harm and disregard that risk by failing to take reasonable measures to abate it, and (2) remand would be required to determine whether prison officials would have liability, under above standards, for not preventing harm allegedly occurring in present case.

Long v. Nix, 877 F.Supp. 1358 (D.Iowa 1995), aff=d 86 F.3d 761 (8th Cir. 1996) (**right to mental health treatment).** Plaintiff sought the right to cross-dress in prison. The court held that trans-sexualism is a serious psychiatric disorder; however, the extent of plaintiff's disorder does not rise to the level of a serious medical need because his issues were secondary to his other psychological problems. In addition to expert testimony, the Court considered several other factors: whether any of the psychiatrists or psychologists recommended the treatment plaintiff sought; whether plaintiff had a history of nonconformity; and whether he had received any treatment for mental health that would be inconsistent with the diagnosis of trans-sexualism.

TABLE OF CASES

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Alejo v. Dallas County, 2005 WL 701041 (N.D. Tex. 2005) (**jail; death; denial of medication**).
Alston v. Fair (D.Mass 77-3519) (**mental health treatment**).
Anderson v. County of Kern, 45 F.3d 1310 (9th Cir. 1995) (**safety cell**).
Armstrong v. Davis, 275 F.3d 849 (9th Cir. 2001) (**discharge; ADA**).
Armstrong v. Wilson, 942 F. Sup. 1252 (N.D. Cal. 1996), aff'd 124 F.3d 1019 (9th Cir. 1997) (**ADA; inmates who use wheelchairs, are deaf or are blind; access to prison programs**).
Arnold on behalf of H.B. v. Lewis, 803 F.Supp. 246 (D.Ariz. 1992) (**mental health treatment; lock down; schizophrenia**).
Atwell v. Hart County, Kentucky, 2005 WL 245282 (6th Cir. 2005) (**detainees; mental health care**).
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Bee v. Graves, 910 F.2d 686 (10th Cir. 1990) (**involuntary medication; Thorazine; detainee**).
Belcher v. City of Foley, Alabama, 30 F.3d 1390 (11th Cir. 1994) (**suicide; jail**).
Belcher v. Oliver, 898 F.2d 32 (4th Cir. 1990) (**suicide; jail**).
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Benjamin v. Fraser, 161 F. Supp. 2d 151 (S.D. N.Y. 2002) (**detainees; mental health care**).
Bird v. Figel, 725 F.Supp. 406 (N.D.Ind. 1989) (**suicide; isolation**).

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Booth v. Cherner, 532 U.S. 371 (2001) (**exhaustion, PLRA**).
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Bowen v. City of Manchester, 966 F.2d 13 (1st Cir. 1992) (**suicide**).
Bowring v. Godwin, 551 F.2d 44 (4th Cir. 1977) (**parole denial; medical necessity test**).

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Bragado v. City of Zion, 788 F.Supp. 366 (N.D.Ill. 1992) (**suicide**).
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Buthy v. New York Commissioner of Office of Mental Health, 818 F.2d 1046 (2d Cir. 1987) (**forensically committed patients; disparate mental health care**).

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Langley v. Coughlin, 709 F.Supp. 482 (S.D.N.Y. 1989), aff=d 888 F.2d 252 (2d Cir 1989) (**female prisoners; segregation**).
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Leshore v. County of Worcester, 945 F.2d 471 (1st Cir. 1991) (**suicide; jail; removal from suicide watch**).
Lewis v. Parish of Terrebone, 894 F.2d 142 (5th Cir. 1990), *reh.den*. 901 F.2d 1110 (1990) (**suicide**).
Lightfoot v. Walker, 486 F.Supp. 504 (S.D.Ill. 1980) (**prison; inadequate mental health care**).
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Long v. Nix, 877 F.Supp. 1358 (D.Iowa 1995), aff=d 86 F.3d 761 (8th Cir. 1996) (**transsexual; right to mental health treatment**).
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Lowe v. Board of Commissioners, County of Dauphin, 750 F.Supp. 697 (M.D.Pa. 1990) (**medications**

confiscated on admission).
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Mahan v. Plymouth County House of Corrections, 64 F.3d 14 (1st Cir. 1995) (**jail; depression & seizures**).
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Matje v. Leis, 571 F.Supp. 918 (S.D. OHIO 1983) (**suicide; juvenile; jail**).
Maul v. Constan, 928 F.2d 784 (7th Cir. 1991) (**involuntary medication; psychotropics**).
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McGulkin v. Smith, 974 F.2d 1050 (9th Cir. 1992), overruled on other grounds, *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (**"serious medical need"**).

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Morales Feliciano v. Hernandez Colon, 300 F.Supp. 2d 321 (D.P.R. 2004) (**mental health treatment**).
Morales Feliciano v. Hernandez Colon, 697 F.Supp. 37 (D.P.R. 1988) (**jail; mental health treatment**).
Murphy v. Lane, 833 F.2d 106 (7th Cir. 1987) (**suicide tendencies; delayed treatment**).

Natriello v. Flynn, 837 F.Supp. 17 (D.Mass. 1993) (**suicide; wrongful death**).
Nelson v. Collins, 455 F.Supp. 727 (D.Md. 1978) (**mental health treatment; class action**).
Newman v. Alabama, 503 F.2d 1320 (5th Cir. 1974), cert.den. 421 U.S. 948 (1975) (**absence of staffing and treatment**).
Nolley v. County of Erie, 776 F.Supp. 715 (W.D.N.Y. 1991) (**HIV+; isolation**).
Nusbaum v. Terrangi, 210 F.Supp. 2d 784 (E.D.Va. 2002) (**involuntary treatment; good time credits**).

Ohlinger v. Watson, 652 F.2d 775 (9th Cir. 1980) (**sex offender right to refuse treatment; parole**).
Okumoto v. Lattin, 649 F.Supp. 55 (D.Nev. 1986) (**transfer to psych unit within prison system**).
Olsen v. Layton Hills Mall, 2002 WL 31768455 (10th Cir 2002) (**detainee; OCD**).
Ortiz v. Voinovich, 21 F.Supp.2d 917 (S.D. OHIO 2002) (**segregation**).

Palmagiano v. Garrahy, 443 F.Supp. 956 (D.R.I. 1977), remanded 599 F.2d 17 (1st Cir. 1979) (**prison; inadequate staffing and treatment**).
Partee v. Lane, 528 F.Supp. 1254 (N.D.Ill. 1981) (**depression**).
Partridge v. Two Unknown Police Officers of Houston, 791 F.2d 1182 (5th Cir. 1986) (**suicide; mail**).
Patterson v. Webster, 760 F.Supp. 150 (E.D.Mo. 1991) (**sexual offender; denial of treatment; denial of discharge**).
Pearson v. Fair, 935 F.2d 40l (lst Cir. l99l) (**sexually dangerous prisoners; seclusion**).
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Perkowski v. City of Detroit, 794 F.Supp. 223 (E.D.Mich. 1992) (**suicide; jail**).
Perri v. Coughlin, 1998 WL 54233 (N.D.N.Y. 1998), 1999 WL 395374 (N.D.N.Y. 1999) (**isolation**).
Peterkin v. Jeffes, 855 F.2d 1021 (3d Cir. 1988) (**mental health treatment; death row**).
Peterson v. Roth, 1992 WL 357697 (E.D.Pa., unreported opinion) (**denial of care due to staff shortage**).
Peterson v. Ward, 823 So. 2d 1146 (La. Ct. of Appeals, 2d Cir. 2002) (**PLRA; exhaustion; restraint**).

Phillips v. Michigan Department of Correction, 731 F.Supp. 792 (W.D.Mich. 1990) (**transsexual; estrogen therapy & mental health care**).
Popham v. City of Talladega, 908 F.2d 1561 (11th Cir. 1990), *aff'g* 742 F.Supp. 1504 (N.D.Ala. 1989) (**suicide; jail; camera surveillance**).
Powell v. Coughlin, 953 F.2d 744 (2d Cir. 1991) (**mental health information; disciplinary hearings**).
Pugh v. Locke, 406 F.Supp. 318 (M.D.Ala. 1976); aff'd in part and modified *sub nom. Newman v. Alabama*, 559 F.2d 283 (5th Cir. 1977), cert.den. 483 U.S. 915 (1978) (**prison; mental health care**).

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980), cert.den. 450 U.S. 1041 (1981) (**maximum security prison; pattern of systemic deficiencies in mental health care**).
Ratliff v. Cohn, 693 N.E.2d 530 (Ind. 1998) (**juvenile in adult prison; inadequate therapy**).
Reed v. McKune, 298 F. 3d 946 (10th Cir 2002) (**right to refuse sex abuse treatment; parole**).
Rellergert v. Cape Girardeau County, Mo., 924 F.2d 794 (8th Cir. 1991) (**suicide; delayed response**).
Rhyne v. Henderson County, 973 F.2d 386 (5th Cir. 1992) (**suicide; inadequate monitoring**).

Rich v. City of Mayfield Heights, 955 F.2d 1092 (6th Cir. 1992) (**jail; suicide**).
Riddle v. Mondragon, 83 F.3d 1197 (10th Cir. 1996) (**sex offender; denial of treatment for deviancy**).
Riggins v. Nevada, 504 U.S. 127, 112 S. Ct. 1810, 118 L. Ed. 2d 479 (1992) (**competency to stand trial)**.
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Robinson v. Weiss, 2001 WL 640980 (D.DELA.) (**delegation of care to private contractor**).
Rodney v. Romano, 814 F.Supp. 311 (E.D.N.C. 1993) (**denial of treatment; hypnosis**).
Rogers v. Evans, 792 F.2d 1052 (11th Cir. 1986) (**suicide, misdiagnosis**).
Rogers v. Nolan, 2004 WL 1698202 (N.D. Tex 2004) (**bi-polar disorder; inadequate medications**).

Ruiz v. Estelle, 503 F.Supp. 1265 (S.D.Tex. 1980), aff'd in part and rev'd in part, 679 F.2d 1115 (5th Cir. 1982), *cert. denied*, 460 U.S. 1042 (1983) (**prisons; constitutionally-required standards of care**).
Ruiz v. Johnson, 37 F.Supp.2d 855 (S.D.Tex. 1999), *rev=d and remanded sub nom. Ruiz v. US*, 243 F.3d 941 (5th Cir. 2001), on remand Ruiz v. Johnson, 154 F.Supp.2d 975 (S.D.Tex. 2001) (**segregation; health care services**)..
Ruiz v. McCotter, 661 F.Supp. 112 (S.D.Tex. 1986) (**insufficient proof of a deficient system**).

Sanchez v. Shillinger, 1995 WL 321953 (10th Cir. 1995) (unreported decision) (**mental health care**).
Sanville v. McCaughtrey, 266 F.3d 724 (7th Cir. 2001) (**suicide, prisoner refusal to accept medication**).
Schmelz v. Monroe County, 954 F.2d 1540 (11th Cir. 1992) (**suicide; jail**).
Searcy v. Simmons, 299 F.3d 1220 (10th Cir. 2002) (**right to refuse sex abuse treatment;; good time credits**).
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incarceration civil detainees).

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Steele v. Shah, 87 F.3d 1266 (11th Cir. 1996) **(denial of medications**).
Sullivan v. Flannigan, 8 F.3rd 591 (7th Cir. 1993) cert.den. 511 U.S. 1007 (1994) (**involuntary medication; Haldol**).
Supre v. Ricketts, 792 F.2d 958 (10th Cir. 1986) (**transsexual; estrogen therapy; MH care**).
Swans, Sr. v. City of Lansing, 65 F. Supp. 2d 625 (W.D. Mich. 1998) (**jail; kick-stop restraint; death**).

Taylor v. Wolff, 158 F.R.D. 671 (D.Nevada 1994) (**prison; mental health system; strip searches**).
Thomas v. Kipperman, 846 F.2d 1009 (5th Cir. 1988) (**mental health treatment; jail**)..
Thompson v. County of Medina, Ohio, 29 F.3d 238 (6th Cir. 1994) (**detainees; mental health care**).
Thompson v. Davis, 295 F.3rd 890 (9th Cir. 2002) (**parole; substance abuse histories; ADA**).
Thompson v. Enomoto, 915 F.2d 1383 (9th Cir. 1990) (**consent decree**).

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Tittle v. Jefferson County Commission, 966 F.2d 606 (11th Cir. 1992) (**suicide; jail**).
Toguchi v. Chung, 391 F.3d 1051 (9th Cir. 2004) (**therapeutic lockdown; restraints; death**).
Torraco v. Maloney, 923 F.2d 231 (1st Cir. 1991) (**suicide; prior; prior drug overdose**).
Toussaint v. McCarthy, 597 F.Supp. 1388 (N.D. Cal. 1984), aff'd 801 F.2d 1080 (9th Cir. 1986) (**segregated lock-up units**).
Trask v. County of Strafford, 772 F.Supp. 42 (D.N.H. 1991) (**suicide; jail**).
Treats v. Morgan, 308 F.3d 868 (8 Cir. 2002) (**pepper spray**).

U.S. v. Gomes, 289 F. 3d 71 (2d Cir. 2002) (**involuntary treatment; competency to stand trial**).
US v. Humphreys, 148 F.Supp.2d 949 (D. So. Dakota 2001) **(forcible medication, incompetent federal prisoner**).
US v. Jones, 811 F.2d 444 (1987) (**involuntary transfer to prison hospital**).
US v. Kidder, 869 F.2d 1328 (9th Cir. 1989) (**PTSD).**
US v. Michigan, 680 F.Supp. 928 (W.D.Mich. 1987) (**mental health treatment; CRIPA; consent decree**) [subsequent decisions in the case are reported at *US v. Michigan*, 940 F.2d 143 (6th Cir. 1991), and 18 F.3d 348, cert.den. 115 S.Ct. 312 (1994).]
US. v. Neshoba County, Miss., CA No. 4:94CV106LN (S.D. Miss. Sept. 19, 1994) (**suicide; CRIPA**).
US. v. Sell, 283 F.3d 560 (8th Cir. 2002) cert. granted, 123 S. Ct 512 (2002) (**involuntary medication; competency to stand trial**).
US v. Watson, 893 F.2d 970 (8th Cir. 1990) (**involuntary medication**).

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Viero v. Bufano, 925 F.Supp. 1374 (N.D.Ill. 1996) (**suicide; medication**).
Vitek v. Jones, 445 U.S. 480 (1980) (**transfer to mental hospital; due process required**).

Wakefield v. Thompson, 117 F.3d 1160 (9th Cir. 1999) (**discharge; antipsychotic medications**).
Waldrop v. Evans, 871 F.2d 1030 (11th Cir. 1989) (**abrupt discontinuation of psychotropic**).
Washington v. Harper, 494 U.S.210 (1990) (**involuntary medication; anti-psychotic drugs**).

Washington v. Silber, 805 F.Supp. 379 (W.D.Va. 1992), aff'd 993 F.2d 1541 (4th Cir. 1993) (**involuntary medication; anti-psychotic**).
Wately v. Parks, 2002 WL 31388792 (6th Cir. 2002) (unreported decision) (**state's use of mental health records to support summary judgment motion**).
Wayland v. City of Springdale, Ark., 933 F.2d 668 (8th Cir. l99l) (**suicide; jail**).

Wellman v. Faulkner, 715 F.2d 269 (7th Cir. 1983), cert.den. 468 U.S. 1217 (1984) (**prison; pattern of systemic deficiencies**).
Wells v. Franzen, 777 F.2d 1258 (7th Cir. 1985) (**use of physical restraints without doctor's order**).
West v. Macht, 235 F.Supp.2d 966 2002 WL 31777846 (E.D.Wisc. 2002) (**restraint, seclusion**).
White v. Farrier, 849 F.2d 322 (8th Cir. 1988) (**transsexual; right to treatment**).

Williams v. Borough of West Chester, Pa., 891 F.2d 458 (3d Cir. 1989) (**suicide; police lockup**).
Williams v. Lee County Alabama, 78 F.3d 491 (11th Cir. 1996) (**suicide; jail**).
Williams v. McKeithen, Civ No. 71-98-B (MD La. 2000) (settlement agreement) (**mental health treatment; settlement agreement**).
Wilson v. Seiter, 501 U.S. 294, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991) (**deliberte indiffrence standard**).

Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963 (1974) (**due process; segregation; good-time credits**).
Woodland v. Angus, 820 F.Supp. 1497 (D.Utah 1993) (**incompetent to stand trial; involuntary medication**).
Woodward v. Correctional Medical Services of Ill., 368 F.3d 917 (7th Cir. 2004), *aff'g*, 2002 WL 31744663 (N.D.Ill. 2002) **(suicide; assessment)**.
Woodward v. Myers, 2002 WL 31744663 (N.D.Ill. 2002); aff'd 368 F.3d 917 (7th Cir. 2004) (**suicide; jail**).

Young v. Augusta, 59 F.3d 1160 (11th Cir. 1995) (**jail; manic depression**).
Young v. Martin, 172 F.Supp.2d 919 (E.D.Mich. 2001), affirmed 2002 WL 31379888 (6th Cir., unreported decision) (**Eighth Amendment, respondeat superior, qualified immunity, wrongful death**).

Ziemba v. Armstrong, 343 F. Supp. 2d 173 (D. Conn. 2004) (**4-points restraints; mental health care**).
Zuniga v. Hidalgo County, Nos. M-95-034 and M-94-086 (Settlement Agreement S.D. Tex.) (**detainees; mental health screening, assessment, treatment**).
Zwalesky v. Manistee County, 749 F.Supp. 815 (W.D.Mich. 1990) (**suicide; jail; detox cell**).