IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DISABILITY RIGHTS NETWORK OF PENNSYLVANIA, Plaintiff, v. JOHN WETZEL, in his official capacity as Secretary of the Pennsylvania Department of Corrections, Defendant.	Civil Action No. ______

COMPLAINT

I. Introduction

1. This action seeks to stop the cruel and unusual punishment of prisoners in Pennsylvania prisons diagnosed with serious mental illness. These men and women are confined in so-called Restricted Housing Units (RHUs) under horrific conditions, through an unconstitutional process that takes no account of—and exacerbates—their mental illness. Defendant's mistreatment of these prisoners violates their rights under the Eighth Amendment to the United States Constitution.

2. RHU prisoners are locked in extremely small cells for at least 23 hours a day on weekdays and 24 hours a day on weekends and

holidays. Typically, the lights are on in the cell all the time. The prisoners are denied adequate mental health care and prohibited from working, participating in educational or rehabilitative programs, or attending religious services. They have only the most minimal contact with other human beings, except when they are assigned a cellmate, who may be psychotic or violent, which can be as deleterious to their mental health as solitary confinement.

3. Prolonged isolation under these extremely harsh conditions exacerbates the symptoms of the prisoners' mental illness, which can include refusing to leave their cells, declining medical treatment, sleeplessness, hallucinations, paranoia, covering themselves with feces, head banging, injuring themselves and prison staff, and suicide. Frequently, these symptoms are regarded as prison rule infractions, which prison officials punish with still more time in the RHU.

4. The result is a Dickensian nightmare, in which many prisoners, because of their mental illness, are trapped in an endless cycle of isolation and punishment, further deterioration of their mental illness, deprivation of adequate mental health treatment, and inability to qualify for parole.

5. Defendant, the Secretary of the Pennsylvania Department of Corrections (DOC), knows or is deliberately indifferent to the fact that the

DOC's treatment of prisoners with mental illness, including the practice of segregating them for long periods of time in RHUs, can cause grave harm to their mental and physical health. Yet, Defendant has displayed deliberate indifference to the effects of the DOC's mistreatment of these prisoners. Unlike correctional systems and officials in many other states, the Pennsylvania DOC does not adequately consider these prisoners' mental illness before forcing them into RHUs, does not provide sufficient beds in units designed especially for prisoners with mental illness, and fails to take other reasonable measures to ameliorate the risk of serious harm to these prisoners. Defendant's deliberate indifference to the effects of the DOC's policies and practices on prisoners with mental illness systemically violates the Eighth Amendment.

6. Plaintiff, the Disability Rights Network of Pennsylvania (DRN), is a non-profit organization designated by the Commonwealth of Pennsylvania pursuant to federal legislation to advocate for and protect the rights of Pennsylvanians with mental illness. DRN seeks an injunction requiring Defendant to cease violating the Eighth Amendment rights of prisoners with mental illness in Pennsylvania prisons, provide them with constitutionally adequate mental health care, and protect them against dangerous and unconstitutional conditions of confinement.

II. Jurisdiction and Venue

7. This Court has jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1343.

8. Plaintiff's claims are authorized by 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201 and 2202.

9. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b) since Plaintiff's principal office as well as DOC's principal office are located in this District.

III. Parties

10. DRN, a non-profit Pennsylvania corporation, has been designated by the Commonwealth of Pennsylvania as the organization with responsibility under the federal Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §§ 10801-07 (PAIMI Act), to advocate for and protect the rights of individuals with mental illness, including prisoners with mental illness in state correctional facilities. Under the PAIMI Act, DRN has the right to pursue legal remedies on its constituents' behalf. 42 U.S.C. § 10805(a)(1)(B).

11. As required by the PAIMI Act, individuals who have received or are receiving mental health services, or their family members, are substantially involved in DRN's governance, *see* 42 U.S.C. §

10805(c)(1)(B), and, in addition to serving on DRN's board, chair and constitute at least 60 percent of its advisory council, *see id.* § 10805 (a)(6)(B-C).

12. Before resorting to litigation, DRN sought to put an end to DOC's systemic constitutional violations without judicial intervention. DRN personnel toured at least a dozen RHUs housing prisoners with mental illness. DRN personnel interviewed hundreds of prisoners in those facilities and requested medical, mental health and disciplinary records for nearly 200 prisoners. DRN personnel reviewed and evaluated those records, with the aid of a psychiatrist with significant experience in correctional mental health care.

13. DRN has also participated in numerous face-to-face meetings, telephone calls, and e-mail exchanges concerning these issues with the DOC's Executive Deputy Secretary, Chief Counsel, Chief Psychologist, and Chief Psychiatrist, each of whom directly or indirectly reports to Defendant. Among other issues, DRN has raised the lack of mental health treatment received by mentally ill prisoners in RHUs, the excessive periods of time prisoners with mental illness languish in RHU, and the DOC's failure to consider mental illness when deciding whether a prisoner should be placed

in RHU. Despite these intensive efforts, Defendant Wetzel and the DOC have persisted in their unconstitutional and unlawful policies and practices.

14. Defendant, John Wetzel, is the DOC's Secretary. He is responsible for the overall oversight, operation, and administration of the Commonwealth's correctional system. He receives regular reports regarding conditions in all the state prisons, including segregation units, and has been advised of the disturbing facts discovered so far by DRN regarding the treatment of prisoners with serious mental illness in RHUs. He has been and continues to be deliberately indifferent to those problems. Defendant Wetzel knew or is deliberately indifferent to the fact that the DOC's policies and practices regarding prisoners with mental illness caused great harm to their mental and physical well-being, and has been deliberately indifferent to the extremely deleterious effect of these policies and practices on the prisoners with mental illness in his charge. He is sued solely in his official capacity for acts and omissions under color of state law.

IV. Facts

A. Prisoners in RHUs Are Subjected to Extreme Isolation, Danger, and Grossly Inadequate Mental Health Care

15. As of December 10, 2012, approximately 800 men and women diagnosed with serious mental illness were confined to RHUs in Pennsylvania correctional facilities. Prisoners diagnosed with serious

mental illness are disproportionately represented in RHUs. There are approximately 11,000 prisoners rated “C” or “D” under the DOC’s stability rating system, which reflects DOC findings that they have serious mental illness. Such prisoners constitute approximately 22 percent of the total Pennsylvania DOC’s population, but they constitute approximately 33 percent of the population in RHUs (approximately 2,400 prisoners).

16. Prisoners are placed in RHUs in either disciplinary custody or administrative custody. Disciplinary custody occurs when prisoners are deemed to have violated prison rules. Prisoners can be placed in administrative custody for numerous reasons, including constituting a danger to themselves or others.

17. Approximately one third of these prisoners are locked in single cells, as small as 80 square feet, for at least 23 hours a day during the week and for 24 hours a day on holidays and weekends.

18. The other approximately two thirds of prisoners with mental illness in these RHUs are kept in double cells, often with cellmates who may themselves be psychotic or violent, which can be at least as devastating to an prisoner's mental well-being as solitary confinement.

19. RHU cell doors are generally made of solid steel and have only a small slot, through which food can be passed or prisoners handcuffed,

and a small window, which allows only a constricted view of the rest of the cell block. Some cells also have a tiny window to the outside, which lets in little if any natural light. The cells have no fresh air.

20. RHU cells have minimal furniture, generally a bed, thin mattress, combination sink-toilet, and small desk and chair.

21. The concrete walls and floors of RHU cells can become scorching in summer. In winter, heating is ineffective or non-existent.

22. On weekdays, prisoners in RHUs are allowed only one hour per day to exercise, often in solitude, in small outdoor cages. Prisoners with serious mental illness often do not take the opportunity to exercise because of their symptoms, such as unreasonable fear, severe depression, or inability to be ready to go to the exercise cages when ordered by staff. Many do not leave their cells for weeks or months.

23. RHU prisoners are permitted three showers per week. Again, because of mental illness, many prisoners refuse showers for days and weeks.

24. RHU prisoners must eat every meal in their cells.

25. The lights in many RHU cells are kept on around the clock, making sleep difficult and disorienting prisoners as to time.

26. Prison guards strip-search and handcuff RHU prisoners, and at times shackle their feet and legs, before allowing them out of their cells for any activity.

27. RHUs are extremely loud, with banging cell doors, and screaming, hallucinating prisoners. To speak to someone in a nearby cell, prisoners must yell through their food slot or the cracks between their cell doors and frames. Prison guards punish prisoners who attempt to communicate with each other quietly by throwing small scraps of paper tied to strings under their cell doors. Such “fishing” is deemed a disciplinary violation and typically results in increased time in the RHU.

28. Prisoners in RHUs cannot attend religious services, hold a prison job, or participate in therapeutic or educational programs. Nor can they take advantage of rehabilitation services for alcohol and drug addiction, sex offences, violence prevention, criminal thinking, domestic violence, and victim awareness. In many instances, these services are prerequisites for parole.

29. Prisoners in RHUs are allowed only non-contact visits, during which they are separated from their visitors by a Plexiglas window and must speak through a telephone (or through a speaker in the window). Sometimes the prisoner’s handcuffs are not removed, which makes it hard

to hold the telephone. Prisoners in administrative custody are permitted one visit per week; prisoners in disciplinary custody are permitted only one visit per month, and only with immediate family. Visits to RHU prisoners are infrequent and are often denied as a result of the prisoner's behavior.

30. For prisoners in disciplinary custody, access to telephones, reading material, and radios is highly restricted.

31. RHU prisoners receive grossly inadequate mental health treatment or none at all. Contacts with mental health staff occur, at best, infrequently. Typically, the staff stands outside the cell and speaks to the prisoner through the food slot or the crack between the side of the cell door and frame. Such visits, which often last no more than a few seconds, do not constitute meaningful mental health treatment.

32. Because of the complete lack of privacy and confidentiality, many prisoners refuse to speak to mental health staff. Others are so debilitated by their mental illness that they are incapable of meaningful interaction with mental health staff during these "drive by" visits.

33. In addition, many prisoners with serious mental illness in RHUs require psychosocial rehabilitation services as part of their treatment, such as structured out-of-cell activities designed to decrease isolation, increase

social interaction, increase treatment and medication compliance, and decrease psychiatric symptoms. These services are not available in RHUs.

B. RHUs Devastate Prisoners with Mental Illness

34. Abundant psychiatric literature spanning nearly two hundred years has documented the severely deleterious effect of isolation on mental health. Isolation is predictably damaging to prisoners with a pre-existing mental illness. It poses a grave risk of exacerbation of mental health symptoms, such as massive anxiety and panic attacks, hypersensitivity, difficulty with concentration and memory, insomnia, compulsiveness, uncontrollable rage, acute delusional states, social withdrawal, hopelessness, hallucinations, and paranoia. Deprived of the social interaction essential to keep them grounded in reality, many prisoners with mental illness experience catastrophic and often irreversible psychiatric deterioration, causing significant psychological pain.

35. The National Commission on Correctional Health Care's 2008 Standards for Mental Health Services in Correctional Facilities (NCCHC Standards) directs that "[i]nmates who are seriously ill should not be confined under conditions of extreme isolation." Similarly, the American Psychiatric Association (APA), in its Position Statement on Segregation of Prisoners with Mental Illness, found that prolonged segregation should be

avoided for prisoners with serious mental illness due to the potential for harm to such prisoners. The APA defined “prolonged segregation” generally as segregation with a duration of greater than three to four weeks. Mentally ill prisoners languish in Pennsylvania’s RHUs, however, for months and even years at a time.

36. The mental deterioration of these prisoners manifests itself in many ways. They often refuse to leave their cells for exercise, showers, or even to meet with psychology or psychiatry staff, either out of unreasonable fear or depression. Some refuse their psychotropic medications. Many suffer suicidal thoughts, and some repeatedly try to cut or hang themselves. Some swallow razor blades or other objects. Others assault fellow prisoners or staff. Paranoia is rampant; some are afraid to sleep due to unreasonable fear of attack. Some prisoners suffer from the onset or increasing episodes of psychosis, a debilitating disorder marked by a loss of contact with reality and disorganized thinking. Psychotic prisoners may suffer from hallucinations, paranoia, delusional beliefs, and bizarre behaviors.

37. Not uncommonly, RHUs are filled with the smell of feces. Many prisoners with serious mental illness neglect to bathe or lie in their beds most of the day.

38. At times, these and other manifestations of serious mental illness result in disciplinary sanctions rather than appropriate mental health care. Predictably, as their mental illness is exacerbated by the conditions in the RHU, prisoners engage in further conduct deemed to be disciplinary infractions that result in ever-longer stays in the RHU. For example, prison officials charge them with disciplinary violations because they fail to "calm down" or stop banging their head against cell doors, use obscene language, fail or refuse to stand for count, or throw urine or other liquids at guards. Symptoms of mental illness—such as suicidal gestures or refusal to take medication—are often characterized as refusals to obey orders. They are subject to an often endless cycle in which their isolation worsens their mental illness, which causes them to violate prison rules again, which leads to even longer periods in isolation, which continues the cycle.

39. Prisoners with mental illness in RHUs also, on average, serve much longer sentences than other prisoners. As noted above, they cannot access programs required to be eligible for parole. In addition, these prisoners are often viewed as disciplinary problems and therefore are unlikely to be considered for parole before the expiration of their maximum sentences.

C. Defendant Consciously Disregards the Severe Harm That the DOC's Policies and Practices Inflict on Prisoners with Mental Illness in RHUs

1. DOC Does Not Adequately Consider Mental Illness in Its Disciplinary and Administrative Processes.

40. Approximately two thirds of the prisoners with mental illness in RHUs are in disciplinary custody. Because of their illness, prisoners with mental illness often cannot conform their conduct to DOC disciplinary rules. When prisoners known to have serious mental illness are charged with disciplinary infractions, they are afforded no meaningful opportunity to have their mental illness considered in defense of the charges or in mitigation of the sanctions.

41. As a matter of policy and practice, Defendant does not require hearing examiners to consider whether the behavior underlying a disciplinary charge results from mental illness, or to consider a prisoner's mental illness when determining culpability for a disciplinary offense.

42. The NCCHC Standards state that an essential element of the treatment of prisoners with mental illness is a review by mental health staff of a prisoner's "mental health record to determine whether existing mental health needs contraindicate placement in segregation or require accommodation."

43. As a matter of policy and practice, Defendant does not require hearing examiners to consult with mental health professionals in determining the appropriateness of sanctions, or the terms of the sanctions, for rule infractions by prisoners with mental illness. In particular, hearing officers are not required to consult with mental health professionals or consider the impact of prolonged segregation in the RHU on the prisoner's mental health or whether a particular sanction is medically contraindicated, as directed by the NCCHC Standards. Nor are hearing officers required to consider remanding a mentally ill prisoner to an appropriate therapeutic setting in lieu of the RHU. In practice, such remands rarely if ever occur.

44. Approximately one third of prisoners with mental illness in RHUs are in administrative custody. The official DOC policy on administrative custody procedures contains a long list of criteria used to consign prisoners to administrative custody, including constituting a danger to themselves or others. The DOC's Program Review Committee, which determines if the criteria for administrative custody have been satisfied, is required to take into account the prisoner's mental health. Yet even if the committee determines that placement of a mentally ill prisoner in the RHU would negatively affect his or her health, it can consign the prisoner to the RHU or prolong confinement there indefinitely.

45. Although DOC policy requires a psychologist or psychiatrist to interview and assess any prisoner remaining in solitary confinement in administrative custody for more than 30 days, and every 90 days if confinement continues, in practice any such assessment recommending the removal of a mentally ill prisoner from the RHU is ignored.

46. In theory, a DOC policy permits mental health staff to recommend that prisoners with mental illness in disciplinary custody be discharged from the RHU without serving their full sanction. But there is no requirement that mental health professionals actually assess the impact of confinement in the RHU on prisoners with mental illness. Nor are there criteria that would govern such an assessment or standards concerning whether such a recommendation should be accepted and implemented. In practice, this policy is rarely if ever used, and prisoners with mental illness often languish in RHUs, deteriorate mentally, and suffer terribly, sometimes for years on end.

2. DOC Fails to Utilize Available Housing Options for Prisoners with Mental Illness.

47. The DOC has housing options for prisoners with mental illness who are deemed incapable of remaining in general population units. But Defendant provides far too few beds in these specialized units to accommodate all of the prisoners with mental illness who need them.

Moreover, the DOC frequently leaves many of beds in these units unoccupied in favor of putting and keeping prisoners with serious mental illness in RHUs, where they suffer and deteriorate.

48. One housing option for prisoners with mental illness is a Secure Special Needs Unit (SSNU). SSNUs are designed for prisoners with mental illness with significant accumulations of administrative or disciplinary custody time, a history of multiple admissions to RHUs or special mental health units, and a pattern of inability to cope with general population or other special needs units caused by specified mental disorders. SSNUs are intended to address prisoners' behavioral problems through a program that gradually relaxes restrictions on them in phases as they adjust to each phase. However, SSNUs are not appropriate for many prisoners with serious mental illness who cannot adjust to the system. Unfortunately, prisoners who cannot conform their behavior and participate in this phase-based SSNU program are returned to the RHU.

49. The DOC does, in fact, maintain seven SSNUs at different DOC facilities. However, it is the policy and practice of the DOC to have inadequate space in its SSNU programs to accommodate all of the prisoners with mental illness who need and qualify for them, and to fail to use the space it does have. As of December 2012, SSNUs had space for

only 141 of the approximately 800 prisoners with serious mental illness in RHUs in all DOC facilities. Yet despite this extreme shortage of SSNU space, as of December, 2012, approximately 60 of the available SSNU beds were empty. Nonetheless, Defendant continues to house prisoners with serious mental illness in RHUs rather than in available SSNUs, disregarding the substantial risk of harm to them.

50. Another option available to Defendant is to obtain state court orders transferring prisoners with mental illness from RHUs to the DOC's three mental health units or its Forensic Treatment Center. These facilities offer the mental health services needed by these prisoners, such as acute stabilization or a structured program of psychosocial rehabilitation services coupled with individual therapy and appropriate medication management.

51. Transfer from an RHU to either a mental health unit or the Forensic Treatment Center often stabilizes prisoners with serious mental illness. But they are then typically returned to an RHU, where they begin to deteriorate again due to the extreme isolation, harsh conditions, and lack of adequate treatment. Many prisoners with mental illness cycle back and forth between RHUs and mental health units or the Forensic Treatment Center over and over again.

3. Defendant Knows or Is Deliberately Indifferent to the Impact of RHUs on Prisoners with Mental Illness.

52. Defendant has been and continues to be deliberately indifferent to the effects of DOC policies and practices with respect to RHUs on the well-being of prisoners with mental illness. Defendant knows or is deliberately indifferent to these effects through the numerous communications and meetings between DRN and various high-level DOC staff, including the Executive Deputy Secretary, Chief Counsel, Chief Psychologist, and Chief Psychiatrist, each of whom directly or indirectly reports to Defendant. Defendant also knows or is deliberately indifferent to these effects through grievances filed by various prisoners regarding RHUs and access to mental health services. Defendant further knows or is aware of allegations that the prisoners with mental illness have been subjected to excessive periods of isolation, causing further harm to their mental health, since the United States Department of Justice has been investigating such allegations at SCI-Cresson since December 1, 2011.

53. Defendant knows or is deliberately indifferent to the fact that prisoners with mental illness are held in RHUs in solitary confinement and for long periods of time.

54. Defendant knows or is deliberately indifferent to the fact that the limited contacts with mental health professionals in RHUs are grossly

insufficient to treat prisoners with serious mental illness and that such deficiency in professional care results in further deterioration of their mental health.

55. Defendant knows or is deliberately indifferent to the fact that isolated confinement, or confinement with a mentally ill cellmate, exacerbates the symptoms of mental illness for many prisoners and results in further deterioration of their mental health.

56. Defendant knows or is deliberately indifferent to the fact that the DOC has failed to take adequate steps to ensure that prisoners with serious mental illness who express suicidal thoughts or attempt suicide are not placed in solitary confinement for any significant length of time.

57. Defendant knows or is deliberately indifferent to the fact that there is insufficient availability and utilization of housing options for prisoners with mental illness, such as SSNUs, mental health units, and the DOC's Forensic Treatment Center.

58. Defendant knows or is deliberately indifferent to the fact that prisoners with mental illness in RHUs suffer grievously without adequate medical treatment.

D. Representative Casualties of Defendant's Unconstitutional Policies and Practices

59. As of December 2012, approximately 800 prisoners in DOC RHUs were diagnosed with serious mental illness. While all of these men and women are suffering as a result of Defendant's policies and practices, we detail below the experiences of specific prisoners to illustrate the problem.

1. Prisoner #1

60. Upon admission to the DOC in 2004, Prisoner #1 was diagnosed with a delusional disorder with paranoid features and borderline intellectual disability. He was given a "D" stability rating under the DOC's Mental Health Roster rating system, which meant he was among the prisoners with the most serious need for mental health services. He denied that he had mental illness and regularly refused antipsychotic medication.

61. Prisoner #1 was placed in a Special Needs Unit, which offers intensive treatment, services, and support for prisoners with intellectual disabilities and mental illness, but was frequently taken out of that unit and consigned to solitary confinement in the RHU for conduct that is a symptom of his mental illness but that prison officials deemed to constitute disciplinary infractions, including threatening staff and filing an excessive number of grievances. All of these alleged infractions involved delusions

that DOC staff were talking about his family in negative terms and that other prisoners knew where his family lived and intended to harm them.

62. Neither the hearing examiner nor mental health staff provided him with any assistance to assert that these behaviors resulted from his mental illness, and he was unable to do so because he denied that he had any mental illness. The hearing examiner gave his illness no consideration in determining whether he was guilty of the charged infractions, whether he should be punished for them, and what punishment should be imposed. No consideration was given to the deleterious effects of solitary confinement on Prisoner #1's mental health.

63. On at least two occasions, Prisoner #1 was placed in special Psychiatric Observation Cells after expressing suicidal intentions. Psychiatric Observation Cells are used for the short-term confinement of prisoners who have attempted suicide or other serious self-harm, expressed suicidal thoughts, or otherwise manifested serious mental deterioration. The cells contain no furniture, clothing, or personal items; only a "suicide blanket" and "suicide smock" are permitted. Prisoners in these cells are supposed to be checked at least every 15 minutes, and may be observed constantly by cameras.

64. In May 2010, Prisoner #1 was transferred to the Special Assessment Unit at State Correctional Institution (SCI) Waymart to assess his difficulties in adjusting to the Special Needs Unit and the general prison population, and to determine ways to facilitate adjustment. It was noted that he had been referred to the Special Assessment Unit due to his delusional belief that corrections officers and other prisoners were talking about his family.

65. In March 2011, Prisoner #1 was transferred to SCI-Cresson. He continued to express his fear that corrections officers and other prisoners were talking about his family and that such talk caused him to fear for their safety. Just as before, he received disciplinary sanctions for acting out in response to his paranoid and delusional thinking. And, just as before, he was placed in the RHU.

66. He expressed suicidal thoughts both before and after his confinement in the RHU.

67. On May 6, 2011, Prisoner #1 hanged himself in the RHU.

2. Prisoner #2

68. Prisoner #2, a 24-year-old prisoner in the RHU at SCI-Greene, has a “C” stability rating, which reflects that he presently has mental health needs. Upon admission, he was diagnosed as having impulse control

disorder, antisocial personality disorder, and borderline personality disorder.

69. In February 2010, Prisoner #2 was evaluated and found incompetent to stand trial by a psychiatrist at Torrance State Hospital, who opined that he was "floridly psychotic" and in need of "structured and supervised psychiatric care." The DOC has not provided him with such care.

70. Instead, Prisoner #2 has been repeatedly charged with rules infractions and received disciplinary sanctions in the RHU for conduct that is symptomatic of his mental illness, such as swearing at corrections officers, refusing to provide a urine sample for the past 3 years, masturbation in front of a female staff person, smearing feces on his own body and throughout his cell, self-mutilation, and attempted suicide. He has said that auditory hallucinations cause him to act out.

71. Prisoner #2 has requested assistance from mental health staff at disciplinary hearings, but the hearing officer has denied such requests. He has filed numerous grievances regarding the lack of mental health treatment provided to him and his placement in the RHU, which have resulted in no change whatsoever in his treatment or placement in the RHU.

72. He has accumulated so much disciplinary custody time that it exceeds his maximum sentence date by decades.

73. Prisoner #2's mental health has deteriorated dramatically in the RHU. He has attempted suicide numerous times, but—to date—has not succeeded.

3. Prisoner #3

74. Prisoner #3 is a 47-year-old prisoner in the RHU at SCI-Cresson. He has a long history of serious mental illness and treatment prior to his incarceration.

75. Prisoner #3 has a "D" stability rating and has been diagnosed with schizoaffective disorder, intermittent explosive disorder, and antisocial and borderline personality disorders as well as a mild intellectual disability.

76. Prisoner #3 has been disciplined many times in the RHU for behaviors directly attributable to his serious mental illness, including banging his head against his cell wall, smearing feces on his body and his cell, attempting suicide by making nooses from bedding material in his cell, making himself bleed, and harming himself in other ways. He has been in the RHU multiple times in the past.

77. Prisoner #3 has accumulated so much disciplinary time—at least 2,000 days in the period between June 2010 and July 2011—that it

exceeds his original court-imposed maximum sentence by several years. His mental condition has deteriorated and he has attempted suicide in the RHU.

78. Prisoner #3 was transferred to a secure special needs unit (SSNU) in 2010, but continued to have misconduct charges brought against him and was subsequently returned to the RHU. In 2011, he was committed to the Mental Health unit for threatening suicide. He also stated at that time that the SSNU program was not helping him.

79. An independent psychiatrist has determined that, to treat his mental illness, Prisoner #3 needs at least a psychosocial program and individual counseling. Because of the current conditions of RHU confinement, the DOC does not and cannot provide programs or counseling to prisoners in RHUs.

4. Prisoner #4

80. Prisoner #4 is a 37-year-old prisoner in the RHU at SCI-Smithfield. He has a long history of mental illness and treatment prior to being incarcerated.

81. Prisoner #4 was previously incarcerated in Pennsylvania state correctional facilities as the result of charges brought against him while he

was a patient at Norristown State Hospital, where he had been involuntarily committed and was receiving mental health treatment.

82. Prisoner #4 has been diagnosed as having schizoaffective disorder, bipolar type, and antisocial personality disorder with demonstrated psychotic symptoms. He exhibits grandiose ideation and paranoia. The severity of his mental illness resulted in him being assigned a "D" under the DOC's Mental Health Roster stability rating system.

83. Prisoner #4 has been subject to numerous disciplinary sanctions in the RHU for behaviors directly attributable to his serious mental illness, including using obscene language, threatening guards, refusing to obey orders, destroying property, and assaults on other prisoners and staff. His serious mental illness worsened as a result of his RHU confinement.

84. Prisoner #4 has filed grievances regarding his mental health treatment, which were denied because they did not conform to the DOC's strict rules. Because of his mental illness, Prisoner #4 is not capable of filing a grievance in compliance with the rules. He has never been permitted any assistance from mental health staff with regard to charges against him or sanctions for those charges. His serious mental illness was

never given any consideration regarding the imposition of disciplinary sanctions.

85. During Prisoner #4's previous incarceration in the DOC prison system, he spent most of his time in the mental health unit, the Forensic Treatment Center (FTC), or in the RHU. In 2005, FTC psychology staff recommended that he be placed in a special needs unit with short placements in a mental health unit, and that any RHU time be limited. When he was released from DOC custody, he was involuntarily committed to Norristown State Hospital. Subsequently, he was re-incarcerated.

86. During his current incarceration, he has been repeatedly confined in the RHU, has mentally deteriorated, and has attempted suicide.

87. In June 2011, Prisoner #4 was determined to be a danger to himself and others as a result of conduct directly attributable to his mental illness and was placed in administrative custody in an RHU. He is now in solitary confinement there.

88. An independent psychiatrist has determined that Prisoner #4 needs a psychosocial program and individual counseling, at the least, to treat his mental illness. This treatment is not available in an RHU.

5. Prisoner #5

89. Prisoner #5 is a 41-year-old prisoner in the RHU at SCI-Graterford. He has a long history of serious mental illness and treatment prior to his incarceration.

90. Prisoner #5 has a "C" stability rating. He has been diagnosed with schizophrenia, schizoaffective disorder, a personality disorder, and intellectual disability. He is paranoid and refuses medication. He believes that others "are out to get him." His DOC medical record notes "peculiar behavior" as "not uncommon." He is reported as isolative, often refusing to leave his cell for medical appointments.

91. Prisoner #5 has been subject to numerous disciplinary sanctions in the RHU for behaviors directly attributable to his mental illness. From March 2011 until March 2012, he received a total of at least 720 days of disciplinary sanctions for abusive language, refusing an order to calm down, threatening employees, refusing an order to lock up, "getting aggressive" with another prisoner, and throwing a liquid at another prisoner. He has also been reassigned to administrative custody in an RHU on at least two occasions during that same time period for being a danger to self or others. He has been placed in a psychiatric observation

cell on several occasions for threatening suicide and engaging in a hunger strike.

92. Prison officials in the RHU have refused to recommend Prisoner #5 for parole because of his numerous assaults and threats ("poor institutional adjustment"). In March 2011, as a result of his mental illness, Prisoner #5 was recommended for placement in a special needs unit. Instead, was confined in the RHU. An independent psychiatrist has recommended that Prisoner #5 should receive psychosocial rehabilitation in an appropriate therapeutic environment, which cannot be provided in an RHU.

6. Prisoner #6

93. Prisoner #6 is a 39-year-old female prisoner in SCI-Muncy. She has a long history of serious mental illness, including at least one suicide attempt and multiple admissions to state psychiatric hospitals, prior to her incarceration.

94. Prisoner #6 has a "D" stability rating and has been diagnosed with schizoaffective disorder, bipolar type, low normal intelligence (86 I.Q.), and a personality disorder.

95. Prisoner #6 has been charged with disciplinary infractions and sentenced to disciplinary sanction in solitary confinement in the RHU based

on behaviors directly attributable to her serious mental illness, such as throwing liquids, covering her cell window with paper, sticking her arms through her cell door food slot, harming herself and demanding to be placed in restraints, and flooding her cell.

96. Between May 6, 2001, and January 14, 2012, Prisoner #6 received 115 misconduct reports, mostly occurring in the RHU. Her mental condition has deteriorated in the RHU. Although SCI-Muncy has no SSNU, according to the DOC website, prison records state she has been assigned to the SCI-Muncy "SSNU." However, she has been returned to the RHU as a "time out" from this "virtual" SSNU for weeks or months at a time.

97. Prisoner #6 received a negative psychological evaluation for parole purposes in July 2010 because of the behavior described in her numerous misconduct reports, most if not all of which arose from conduct directly attributable to her mental illness.

98. An independent psychiatrist has recommended that Prisoner #6 receive psychosocial rehabilitative treatment, which cannot be provided in an RHU.

7. <u>Prisoner #7</u>

99. Prisoner #7 is a 43-year-old prisoner in solitary confinement in the RHU at SCI-Greene, where he was transferred in May 2011. He has

been treated for serious mental illness since he was a child. He has been in prison for over 20 years.

100. Prisoner #7 has a “C” stability rating and has been diagnosed with paranoid schizophrenia and antisocial personality disorder. He often exhibits bizarre, hostile, and delusional behavior. He was found guilty but mentally ill, served his sentence and was paroled in 2008. Within 10 months of his discharge, he was subsequently re-incarcerated for a technical parole violation.

101. Prisoner #7 has had extensive placements in psychiatric observation cells, medical health units, special needs units, and the Forensic Treatment Center at SCI-Waymart. He has reported that he does not believe his current medication regime is helpful and that he needed the sort of therapeutic programming he received in the Forensic Treatment Center. Two years in the RHU at SCI-Greene has exacerbated his depression.

102. Prisoner #7 has been subject to numerous disciplinary sanctions in the RHU for behaviors directly related to his mental illness, including assault, threatening another person, using abusive language, and refusing to obey orders. His misconduct record is 40 pages long.

103. During the course of his incarceration, his serious mental illness has been noted and he has been referred for placement in therapeutic settings. Yet he has languished, and deteriorated, in the RHU for years.

104. An independent psychiatrist who interviewed Prisoner #7 and reviewed his records on two occasions recommended that he required a therapeutic setting (psychosocial rehabilitation), which cannot be provided in an RHU.

8. Prisoner #8

105. Prisoner #8 is a 28-year-old prisoner in the RHU at SCI-Greene. He has a history of mental illness since adolescence.

106. Prisoner #8 has a "D" stability rating. He has a diagnosis of paranoid schizophrenia, a psychotic disorder, a paraphilia, and a personality disorder. He is delusional and paranoid, stating that he receives messages from the television and from dead people. He has also reported suicidal thoughts.

107. Prisoner #8 does not have an extensive misconduct history. He has been in administrative custody as a result of a determination that he is a danger to himself or others. He has filed grievances regarding the lack of access in the RHU to programming he needs for a positive parole recommendation. He has also filed requests for a reduction of time in

administrative custody, but the Program Review Committee has denied them based on its conclusion that he continues to be a danger to himself or others.

108. Prisoner #8 has been placed in a psychiatric observation cell for suicide watch, but has received no mental health treatment in a therapeutic setting.

109. An independent psychiatrist who interviewed Prisoner #8 and reviewed his records on two occasions recommended that he be placed in a therapeutic setting where psychosocial rehabilitation would be provided. This treatment cannot be provided in an RHU.

9. Prisoner #9

110. Prisoner #9 is a 29-year-old prisoner in the RHU at SCI-Smithfield.

111. Prisoner #9 has a "C" stability rating. Prior to his incarceration he was twice hospitalized in psychiatric institutions. He has been diagnosed with paranoid schizophrenia, schizoaffective disorder, and adjustment disorder with anxiety and depression.

112. Prisoner #9 has received disciplinary sanctions in the RHU as a result of behavior directly related to his serious mental illness, including destroying property, assaults on other prisoners, and threatening

correctional officers. He has requested the assistance of mental health staff in at least one disciplinary hearing, but the hearing officer denied this request.

113. Prisoner #9 was reassigned to administrative custody in March 2012 as he was deemed dangerous to himself or others. He has requested a reduction in time to be served in administrative custody, but the Program Review Committee advised him that, to get a reduction, he would have to guarantee he would not get into physical altercations with other prisoners or staff. Prisoner #9 was unable to make such a guarantee, and thus has not received a reduction.

114. Prisoner #9 has been placed in the psychiatric observation cell on several occasions after reporting suicidal thoughts, but has been provided no mental health treatment in a therapeutic setting.

115. An independent psychiatrist who interviewed Prisoner #9 and reviewed his records on two occasions recommended that he be placed in a structured psychosocial rehabilitation program, which cannot be provided in the RHU.

10. Prisoner #10

116. Prisoner #10, a 29-year-old prisoner in the RHU at SCI-Cresson, has a long history of serious mental illness.

117. Prisoner #10 has a “C” stability rating. He has also been diagnosed with atypical psychosis, major depressive disorder with psychotic features, and borderline personality.

118. After he refused to take his prescribed medications, they were discontinued in February 2011, and then reinstated two months later. He reports that he has recurrent auditory hallucinations directing him to kill himself and others.

119. Prisoner #10 has been sanctioned for disciplinary violations numerous times for behaviors directly related to his mental illness, including abusive language toward a corrections officer (writing notes of an inappropriate nature), sleeping during count, lying about abuse by a correctional officer in a grievance, assault, and slamming his food tray. He has spent most of the last two years in the RHU.

120. Prisoner #10 has been placed in a psychiatric observation cell on several occasions for expressing suicidal thoughts, but has received no mental health treatment in a therapeutic setting.

121. An independent psychiatrist who reviewed Prisoner #10’s medical records recommended that he be provided psychosocial rehabilitation, which is not available in an RHU.

11. Prisoner #11

122. Prisoner #11, a 45-year-old prisoner in the RHU at SCI-Smithfield, has a long history of serious mental illness and borderline intellectual disability. He was found guilty and incarcerated at age 15, and is serving a life sentence.

123. Prisoner #11 has a "D" stability rating and has been diagnosed with schizoaffective disorder, bipolar type. He has slurred speech, which mental health staff have reported makes him difficult to understand, has a borderline intellectual disability (70 I.Q.), and is easily manipulated by other prisoners and correctional staff. He also experiences auditory hallucinations.

124. Other prisoners have sexually assaulted him on numerous occasions. Threats of that nature make him extremely anxious, which as a result of his diagnosed mental illness causes him to threaten or assault others.

125. Prisoner #11 has threatened suicide numerous times and has attempted to hang himself on several occasions.

126. Prisoner #11 has been subject to numerous disciplinary sanctions for behaviors directly related to his mental illness, including destroying property (tearing up his mattress and sheets and fashioning a

noose), refusing to return his food tray (because he believes correctional officers are tampering with his food), assault, covering the cell window in the psychiatric observation cell with a suicide smock, and refusing an order (to stop banging his head against the screen on the cell window). He has accumulated disciplinary custody sanctions that would have extended his time in the RHU until at least 2016.

127. Prisoner #11 was allowed to participate in the SSNU at SCI-Cresson. While at times he made progress and moved from a lower phase to a higher phase of the program, he often would then receive misconduct reports, which resulted in sanctions and required him to start over again. He was unable to progress in the program consistently because of his intellectual disability and because of anxiety caused by threats of bodily harm and sexual exploitation from other prisoners. Ultimately, it was determined that he had "failed" the program. He was sent back to the RHU in SCI-Smithfield, even though it was recommended that he be placed in another secure special needs unit. He has requested a transfer to the Forensic Treatment Center at SCI-Waymart, but no transfer has occurred. He was returned to the SSNU in early February 2013.

128. Prisoner #11 is in need of a much more long-term therapeutic placement with a highly structured and protective psychosocial

rehabilitation program. This treatment cannot be made available to him in the RHU or the SSNU.

12. Prisoner #12

129. Prisoner #12 is a 34-year-old female prisoner in solitary confinement in the RHU at SCI-Muncy. She has a long history of serious mental illness and treatment prior to incarceration. She is serving a life sentence based on having been found "guilty but mentally ill" of first degree murder.

130. Prisoner #12 has a "D" stability rating and has been diagnosed with schizoaffective disorder, a mood disorder, post-traumatic stress disorder, a personality disorder, and impulse control disorder. She has expressed suicidal thoughts and has repeatedly harmed herself.

131. Prisoner #12 has received numerous misconduct reports and sanctions in the RHU for behaviors directly resulting from her serious mental illness. In the spring of 2011, she received significant amounts of disciplinary custody time for offenses arising from conduct directly attributable to her mental illness. She has been sanctioned for refusing to obey an order (to stop cutting her wrist; to stop screaming), for assault on another prisoner (cellmate), fashioning a noose from her bedding, and self-mutilation.

132. Prisoner #12 has not been recommended for or received long-term mental health treatment, other than short stays in a psychiatric observation cell. She has repeatedly asked to be transfer to an SSNU in order to receive mental health treatment, but all of her requests have been denied.

133. An independent psychiatrist who reviewed Prisoner #12's records recommended that she receive a higher level of mental health care, such as a special needs unit, where she can receive psychosocial rehabilitation. This treatment cannot be provided in an RHU.

V. Claim for Relief: Cruel and Unusual Punishment in Violation of the Eighth and Fourteenth Amendments

134. Plaintiff incorporates by reference Paragraphs 1 through 133 of this Complaint.

135. The Eighth Amendment, as applied to the states by the Fourteenth Amendment, prohibits cruel and unusual punishment.

136. Defendant's policies, practices, and procedures systemically violate the Eighth Amendment rights of prisoners with mental illness. Such policies, practices and procedures include, without limitation:

- confinement of prisoners with mental illness in RHUs for conduct directly attributable to their mental illness;

- a disciplinary system that does not consider a prisoner's serious mental illness and the impact of isolation in assessing whether to sanction the prisoner or, if so, the nature of the sanction;
- failure to provide minimally adequate psychiatric and psychological services to diagnosed prisoners with mental illness in RHUs, resulting in unnecessary pain and suffering;
- maintenance of conditions in RHUs that exacerbate prisoners' serious mental illness, including near-constant isolation with little if any human contact and constant lighting of cells day and night; and
- failure to make available, maintain, and utilize adequate therapeutic alternatives to RHUs.

137. Defendant knows or is deliberately indifferent to the fact that the numerous prisoners who have been diagnosed as having serious mental illness are placed in RHUs for extensive time periods and that confinement in RHUs creates a substantial risk that those prisoners' mental illnesses will be exacerbated and that their mental health will deteriorate. Defendant also knows or is deliberately indifferent to the fact that the mental health treatment provided to prisoners with mental illness in RHUs is inadequate and results in the exacerbation or unnecessary prolongation of prisoners'

mental illnesses. The impact of long-term isolation in RHUs has been brought to Defendant's attention through numerous prisoner grievances and communications with prisoners' rights advocacy organizations. Nonetheless, Defendant has refused to take reasonable steps to correct this systemic violation of prisoners' rights.

138. Defendant has acted, or failed to act, with deliberate indifference to the health and safety of prisoners with serious mental illness. As a direct and proximate result of his acts and omissions, the Eighth Amendment rights of such prisoners have been violated, are being violated, and will continue to be violated.

VI. Relief

139. Plaintiffs respectfully request that the Court:

A. exercise jurisdiction over this action;

B. issue appropriate declaratory relief and injunctive relief to stop the constitutional violations described above and to ensure that DOC prisoners receive constitutionally adequate mental health care;

C. award reasonable attorneys' fees, litigation expenses, and costs pursuant to 42 U.S.C. § 1988; and

D. grant such other relief as may be appropriate.

Dated: March 11, 2013 By: /s/ Robert W. Meek

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