



## PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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Sept. 27, 2021

### **Via First Class Mail and Fax (570) 546-2745**

Superintendent Wendy K. Nicholas  
P.O. Box 180  
Route 405  
Muncy, PA 17756

Dear Superintendent Nicholas:

I am writing on behalf of the Pennsylvania Institutional Law Project to express serious concern over the lack of proper mental health care being provided to our client, [REDACTED]. Ms. [REDACTED] has attempted to take her own life on numerous occasions in the two and a half years she has been incarcerated at SCI Muncy and has repeatedly engaged in serious self-harm. In response, SCI Muncy staff have instituted severe physical protective measures, which continuously retraumatize Ms. [REDACTED], while failing to provide her with any meaningful mental health care. [REDACTED]

We ask that you approve Ms. 000000 for a significantly higher level of mental health care, by admitting her to the Mental Health Unit (“MHU”). We further ask that you provide her with regular, consistent counseling in an appropriate private setting and regular access to a psychiatrist to oversee her medication regimen.

Ms. [REDACTED] has been institutionalized in psychiatric hospitals since the age of 13. At [REDACTED], where Ms. [REDACTED] resided prior to her incarceration at SCI Muncy, she was treated for several psychological conditions including Anxiety disorder, mood disorder, impulse disorder, Post-Traumatic Stress Disorder (PTSD), Major Depressive Disorder, and psychosis. Her principal diagnosis on discharge from [REDACTED] was Borderline Personality Disorder. In [REDACTED], Ms. [REDACTED] was found Guilty But Mentally Ill and was given a D Roster classification upon her intake to SCI Muncy. However, medical staff at SCI Muncy provided her with only two psychiatric diagnoses: Antisocial Personality Disorder in March 2019 and PTSD in September 2019. They then removed the PTSD diagnosis in September 2020.

Despite her significant history of abuse and psychiatric treatment, SCI Muncy medical staff have previously found Ms. [REDACTED] to be psychiatrically untreatable, claiming that her frequent attempts to end her life are manipulations rather than clear reflections of mental illness and psychological distress. She has been consistently housed in the Behavioral Management Unit (BMU), a unit designed for people who are not acutely mentally ill, the Restrictive Housing Unit (RHU), or a Psychiatric Observation Cell (POC).

Since arriving at SCI Muncy in [REDACTED], Ms. [REDACTED] has been trapped in a cycle of self-harm and traumatic physical restraint. She has engaged in numerous instances of self-harm and attempts to end her life. She expresses active suicidal ideation and has described suicidal thoughts and plans to SCI Muncy medical staff many times. On several occasions, she has slammed her head into a wall repeatedly, causing herself serious physical harm. She has also eaten dangerous objects, inserted foreign objects into her body to cause infection and engaged in other forms of physical self-harm.

As a response to these behaviors, SCI Muncy staff have taken some physical steps to protect her, such as putting her in a safety helmet. However, under the guise of monitoring her, Muncy staff are punitively using a restraint chair and have forced her to remove pieces of clothing on a daily basis so they can take photographs of her body; for several months, she was forced to strip naked for these photos.

On at least one occasion after Ms. [REDACTED] self-harmed, SCI Muncy staff placed her in the restraint chair for 72 hours as soon as she returned from the hospital. Ms. [REDACTED] was forced to sleep sitting up for two nights after a serious suicide attempt and given no access to mental health professionals. On another occasion, she was forced to spend the night sitting in the restraint chair with a foley catheter inserted into her urethra, causing her extreme pain and discomfort. Most recently, she was placed in handcuff restraints for five days straight and is still experiencing severe shoulder pain due to inability to move her arm for several days. She is currently forced to wear a safety helmet 24 hours a day.

This type of response is appalling and inhumane. First, the restraint chair is being used as a form of punishment, even when Ms. [REDACTED] is not actively a danger to herself or others. Notably, Ms. [REDACTED] is routinely placed in the restraint chair upon returning from hospital visits, after the moments of crisis causing her to self-harm have already passed. More importantly, this response is particularly harmful because of Ms. [REDACTED] significant trauma history involving a violent sexual assault [REDACTED].

Using a restraint chair triggers Ms. [REDACTED]'s PTSD and re-traumatizes her. Recently, the prospect of being put in the restraint chair as a response to her cutting her knee actually caused Ms. [REDACTED] to self-harm much more severely. Further, taking daily photos of her body is another form of violation that is particularly traumatizing for a sexual assault survivor that could be avoided with more appropriately tailored measures and care. Not only are SCI Muncy staff failing to treat Ms. [REDACTED]'s serious mental health concerns, they are actively exacerbating her already grave condition.

Despite Ms. [REDACTED]'s serious mental health needs, she does not have meaningful or consistent access to either a therapist or a psychiatrist. Though Ms. [REDACTED] has been experiencing this level of distress for the majority of her incarceration, she has been given minimal and at times no psychiatric medication. She is currently only administered one psychiatric medication, far less than the nine psychiatric medications she was receiving upon discharge from [REDACTED], where her condition was being more successfully managed. She discusses her medication every other week with a Nurse Practitioner, but does not see a psychiatrist who specializes in mental health care.

For most of her time at SCI Muncy, Ms. [REDACTED] has had little therapy or access to a psychologist. She has had periods of daily check-ins with a counselor, but only for about 3-5 minutes at her cell door where there is no privacy. These conversations did not address any issues or engage in real counseling of any kind. Ms. [REDACTED] is not comfortable speaking about her trauma history or the other underlying causes of her condition or actions during such brief, nonconfidential encounters. More recently, around July 2021, Ms. [REDACTED] began receiving weekly, confidential, 30-minute therapy sessions which began to improve her condition. However, after a recent incident of self-harm, she was moved to the RHU and these sessions stopped. As of mid-September 2021, Ms. [REDACTED] had not had any access to a therapist or psychologist in about a month.

Notably, medical staff at both SCI Muncy and [REDACTED], where Ms. [REDACTED] has been treated on numerous occasions following incidents of self-harm, have questioned whether her mental illness is being adequately treated. At least one doctor at SCI Muncy has specifically recommended that she be placed in the MHU due to the highly dangerous nature of her self-harm and the acute risk of her ending her life. DOC's Access to Mental Healthcare policy specifies that when an "individual remains a high suicidal risk, the facility mental health staff shall initiate a mental health commitment to a licensed inpatient facility."<sup>1</sup>

As you are undoubtedly aware, Ms. [REDACTED] has a clear constitutional right to proper mental health care.<sup>2</sup> Prison officials "have an obligation to provide medical care for those whom it is punishing by incarceration."<sup>3</sup> This obligation clearly includes mental health care and treatment for mental illness.<sup>4</sup> Prison officials are deliberately indifferent when they "know[] of the need for medical care" but they "intentional[ly] refus[e] to provide that care."<sup>5</sup> The fact that a prison provides some form of medical or mental health treatment does not establish that the care is adequate under the Eighth Amendment. When a prison chooses to provide an easier but less effective form of treatment, this can constitute deliberate indifference.<sup>6</sup> The Third Circuit has also found deliberate indifference "where the prison official persists in a particular course of treatment 'in the face of resultant pain and risk of permanent injury.'"<sup>7</sup>

In *Palakovic v. Wetzel*, Brandon Palakovic—an individual incarcerated in the Pennsylvania DOC—committed suicide after a documented history of self-harm and suicidal ideation.<sup>8</sup> Like Ms.

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<sup>1</sup> DOC Policy 13.8.1: § 2(L)(7)

<sup>2</sup> See *Brown v. Plata*, 563 U.S. 493, 545 (2011) (finding that the California state prison system's lack of proper mental health care constituted an Eighth Amendment violation); see also *Estelle v. Gamble*, 429 U.S. 97, 103 (1976) ("[E]lementary principles establish the government's obligation to provide medical care for those whom it is punishing by incarceration.").

<sup>3</sup> *Id.*

<sup>4</sup> *Palakovic v. Wetzel*, 854 F.3d 209, 234 (3d Cir. 2017) (finding the Pennsylvania Department of Corrections liable for deliberate indifference to serious medical needs for failure to provide adequate mental health care to an individual who took his own life).

<sup>5</sup> *Spruill v. Gillis*, 372 F.3d 218, 235 (3d Cir. 2004).

<sup>6</sup> *West v. Keve*, 571 F.2d 158, 162 (3d Cir. 1978).

<sup>7</sup> *Rouse v. Plantier*, 182 F.3d 192, 197 (3d Cir. 1999) (citing *White v. Napoleon*, 897 F.2d 103, 109 (3d Cir. 1990)).

<sup>8</sup> 854 F.3d at 231-32.

██████, Mr. Palakovic’s interactions with a counselor were through the food slot of his cell door, and he had numerous suicide attempts prior to finally succeeding in taking his own life.<sup>9</sup> The Third Circuit indicated that the prison was responsible for providing counseling, ensuring frequency of mental health appointments, conducting such appointments in a “clinically appropriate setting,” and providing “proper medical oversight of medication regimes.”<sup>10</sup>

Medical and mental health staff at SCI Muncy are currently aware of a serious risk of substantial harm to Ms. ██████’s health. Despite repeated and escalating incidents of self-harm, those tasked with treating Ms. ██████’s mental illness have persisted with a cruel and ineffective treatment plan that includes few if any therapeutic components and relies heavily on physical restraint. Not only are SCI Muncy staff failing to provide proper treatment, but they are also responding to the symptoms of her illness in ways that exacerbate her condition. These actions likely violate the Eighth Amendment. We request that you immediately approve Ms. ██████ for a program or unit, such as the MHU, that can provide substantially more mental health care. If you are unable to do so, we ask that you provide us with a clear explanation as to why you are refusing to provide Ms. ██████ with meaningful mental health care.

We urge you to take our concerns seriously, as Ms. ██████ is at a grave risk of committing even more serious self-harm and even taking her own life. We would appreciate a response by October 25, 2021 with an explanation. If we do not receive a response, we may take further action.

If you have any questions or concerns, you may contact Grace Harris (gharris@pailp.org, (215) 925-2966) or Alexandra Morgan-Kurtz (amorgan-kurtz@pailp.org). Thank you.

Sincerely,



Grace Harris  
Staff Attorney

*/s/ Alexandra Morgan-Kurtz*

Alexandra Morgan-Kurtz, Esq.  
Managing Attorney

cc: Timothy Holmes, Acting Chief Counsel, Pennsylvania Department of Corrections  
(via email [tholmes@pa.gov](mailto:tholmes@pa.gov)).

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<sup>9</sup> *Id.* (“Brandon did not receive psychological counseling, drug and alcohol counseling, group therapy, or interviews in clinically appropriate settings; any mental health interviews were conducted ‘through the cell door slot in the solitary confinement unit.’”).

<sup>10</sup> *Id.*