

**FOR IMMEDIATE RELEASE – APRIL 17, 2007**

**LANDMARK SETTLEMENT INCREASES TREATMENT AND HOUSING PROGRAMS FOR PRISONERS WITH MENTAL ILLNESS IN NEW YORK STATE PRISONS**

NEW YORK, NY– After five years of litigation and two weeks of trial, a settlement will provide for major improvements in psychiatric treatment for New York State prisoners with mental illness. The lawsuit, *Disability Advocates, Inc. v. New York State Office of Mental Health and Department of Correctional Services*, was filed in federal court in New York City in May, 2002.

The lawsuit alleged that prisoners throughout the New York State prison system did not get the treatment they needed. As a result, many prisoners in need of treatment were instead punished with lengthy stays in 23 hour per day lockdown (isolated confinement in SHU or keeplock), where they suffered severe psychiatric deterioration, including acts of self-mutilation and even suicide. The settlement requires that prisoners with serious mental illness confined in Special Housing Units (“SHU”) will now receive a minimum of 2 hours per day of out of cell treatment and that prisoners in the RMHU receive as many as 4 hours, in addition to an hour of recreation.

The settlement also provides:

- Multiple reviews of disciplinary sentences for prisoners with mental illness for the purpose of removing prisoners with serious mental illness from isolated confinement.
- Residential programs for 405 prisoners with serious mental illness.
  - 215 Transitional Intermediate Care Program beds for prisoners with mental illness in general population.
  - 90 additional Intermediate Care Program beds for prisoners with mental illness who cannot tolerate the prison general population.
  - A 100 bed Residential Mental Health Unit (“RMHU”) which will provide 4 hours per day of out-of-cell programming for prisoners with serious mental illness who would otherwise be in SHU.
  - The above are in addition to 310 residential mental health programs beds which the state instituted after the litigation commenced.
- An additional 20 psychiatric hospital beds for prisoners in need of acute care.
- Universal and improved mental health screening of all prisoners at admission to prison.
- Improved suicide prevention assessments, now required upon admission to SHU.
- Improved treatment and conditions for prisoners in psychiatric crisis in observation cells.
- Limits on the use of observation cells, where prisoners in psychiatric crisis are deprived of most possessions and clothing.
- Limits on punishment of prisoners with mental illness who hurt themselves because of their illness.
- Limits on the use of the punitive ‘restricted diet’ (a loaf made from bread and cabbage) as a punishment for misconduct by prisoners with serious mental illness.

- Elimination of isolated confinement of prisoners with serious mental illness in cells that have solid steel doors that severely isolate and restrict communication.

The new state budget provides monies to carry out the State's commitments in the settlement agreement. These funds approximate over \$50 million in capital construction costs; \$2 million for additional OMH staffing for the 2007-2008 year to grow to \$9 million when construction is complete; and nearly \$2 million for additional DOCS staffing for the 2007-2008 fiscal year.

According to Betsy Sterling of Prisoners' Legal Services of New York, one of the attorneys for the plaintiff: "The settlement provisions, which require the commitment of high level officials in both of the state agencies to involvement and to oversight of changes in the prison mental health system, are extremely important to the reform process. We expect this commitment of the leadership to drive the entire system forward with long overdue and necessary change."

"This settlement is historic in the scope of its comprehensive mental health programs and in the breadth of the relief provided to prisoners with mental illness. Relief for prisoners in isolated confinement is not limited to prisoners housed in one 'supermax' facility, as is true in so many other states. This settlement provides relief to all prisoners with serious mental illness in any form of isolated confinement in any prison and much more." stated Sarah Kerr of the Legal Aid Society, co-counsel to the plaintiff.

Nina Loewenstein of Disability Advocates, Inc. stated "This settlement will greatly enhance the care and treatment of every prisoner with serious mental illness in New York prisons and, once the treatment beds promised in the settlement are completed, significant numbers of prisoners with serious mental illness will be diverted from SHU into programs providing treatment and programming up to four hours a day."

Cliff Zucker, Executive Director of the plaintiff, Disability Advocates, said "This landmark settlement will insure that prisoners with serious mental illness receive needed treatment and are not confined under inhumane conditions. Moreover, mental health staff, correctional officers, prisoners and the public will benefit from the increased safety and stability provided by making mental health treatment available to those in need."

A court conference before United States District Judge Gerard E. Lynch is scheduled for April 27, 2007, at which time the parties will ask for approval of the settlement. The settlement will not be final unless and until approved by Judge Lynch.

The plaintiff in this case is Disability Advocates, Inc., an Albany-based not-for-profit which is authorized by federal law to advocate for the rights of persons with disabilities in New York. Its advocacy on behalf of prisoners with mental illness is made possible by generous support from the van Ameringen Foundation.

The case was litigated by Disability Advocates, Inc., the Prisoners' Rights Project of the Legal Aid Society, Prisoners' Legal Services of New York, and the law firm of Davis Polk & Wardwell. Davis Polk & Wardwell assisted the non-profit organizations on a *pro bono* basis providing approximately 30,000 hours of volunteer attorney time and 10,000 hours of paralegal time to the litigation effort. In recognition of this *pro bono* commitment by Davis Polk & Wardwell, Senior Counsel, James W.B. Benkard, has been awarded the New York State Bar Association 2007 President's Pro Bono Service Award for the First Judicial District, which will be presented in a ceremony on Law Day, April 30, 2007.