

Michigan: Mentally ill inmate dies after five days of abuse

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On August 6, Timothy Joe Souders, a mentally ill young man held in the Southern Michigan Correctional Facility in Jackson, died after five days of horrific abuse and neglect. The 21-year-old was held for five days in isolation, naked, shackled by his arms and legs to a concrete slab in temperatures exceeding 100 degrees, forced to lie in his own urine.

On Monday, a federal judge in Kalamazoo ordered an immediate and complete ban on the use of such restraints, called four-point or “top of the bed” restraints, in three Jackson prisons in the Michigan Department of Corrections. Judge Richard Alan Enslin called Souders’s death “predictable and preventable.” He ruled against the Southern Michigan Correctional Facility officials, determining that “the defendant’s practice constitutes torture and violates the Eighth Amendment,” which prohibits the use of cruel and unusual punishment against prisoners.

The outrageous circumstances of the case are a condemnation of the US prison system, as well as the political establishment as a whole, whose increasing brutality, indifference, and disregard for human rights have contributed to a breakdown of Constitutional protections that determine the treatment of prisoners. The facts surrounding Souders’s death reveal the profound erosion of protections protected by the Bill of Rights.

Souders arrived at the Jackson facility as a general population prisoner only four months before being put in isolation. Despite having a long history of mental illness, he was serving an unjustifiably harsh four-year sentence for threatening two Meijer department store security guards with a knife after they detained him for shoplifting.

On July 31, Souders was put in restraints as punishment for “flooding his sink.” Describing Souders’s treatment, Judge Enslin wrote, “In practice, ‘top of the beds restraints’ is a euphemism for chaining an inmate’s hands and feet to a concrete slab. T.S.’s ‘bed’ was composed of a concrete slab for the purpose of receiving the locking restraints.”

After many hours of lying naked in urine, Souders developed a raw burn on his back for which he was removed

from his cell for one hour but received no treatment. On one occasion, Souders “refused to cooperate with his restraint,” prompting five guards to place a large Plexiglas shield over him and press him, screaming, to the slab, with their combined weight.

He suffered from severe depression, bipolar disorder, and manic episodes, and was prescribed six different medications to manage his illness and counteract drug side-effects. Several of the chemicals Souders was administered, including lithium and the antipsychotic drug Seroquel, are well known to cause kidney failure, increased urination, and dehydration without careful psychiatric monitoring. An autopsy report has not yet been released, but medical experts consulted by the court speculate that Souders died of dehydration.

Described by a social worker on August 2 as “floridly psychotic,” Souders was recommended for a transfer out of the prison and into a mental health center. His referral was approved that same day, but no action followed. Judge Enslin condemned the delay on the part of Correctional Medical Services, the private Missouri-based contractor that provides inmate health care to the prison: “The immediate consequence of the failure to transfer was that a psychotic man with apparent delusions and screaming incoherently was left in chains on a concrete bed over an extended period of time with no effective access to medical or psychiatric care and with custody staff telling him that he would be kept in four-point restraints until he was cooperative.”

By August 6, Souders was taken to a shower and was so weak that he was transported back to his cell in a wheelchair. Nevertheless, he was placed back in the restraints. After a bout of “prolonged ‘sleeping,’ ” the guards again removed Souders from the slab, whereupon he fell face first onto the concrete floor. A prison nurse attempted to take his pulse sometime thereafter. Video logs reviewed by the court recorded a dazed Souders asking about his own pulse and the nurse responding, “It’s faint, but I heard it.” The nurse, however, did not record any vital readings in the log following the visit, report on Souders’s

weak condition, or request needed emergency care. An hour later, Souders had stopped breathing and was shortly thereafter pronounced dead.

By American Medical Association standards, Souders's treatment by private prison health care providers constituted the facilitation of torture. The AMA, motivated by the atrocities committed at Abu Ghraib at the behest of the US government, issued new ethical guidelines that explicitly defined torture as "the deliberate, systematic or wanton administration of cruel, inhumane, and degrading treatments or punishments during imprisonment or detainment." Ethical standards require medical practitioners to oppose and "not participate in torture for any reason. Participation in torture includes, but is not limited to, providing or withholding any services, substances, or knowledge to facilitate the practice of torture."

Enslens suggested that prison staff, as well as Correctional Medical Services administrators, could face criminal charges for "intentionally delaying referrals and care for craven profit motives." He cited numerous appalling instances of non-treatment that were recently documented by doctors investigating the prison's healthcare system, including an inmate who died of untreated cancer. He was found lying in excrement in his cell, after having lost 60 pounds from a "hunger strike." The prison administrators regarded him as a "malingerer," feigning illness and delirium. Like Souders, other inmates with life-threatening physical and mental conditions were punished with the four-point restraints for being "uncooperative."

The Court found that, in addition to the "Deliberate indifference to serious medical needs," the prison system also unquestionably violates the Eighth Amendment by using "cruel and unusual" mechanisms of restraint.

Public officials have attempted to downplay the case aided by a largely acquiescent press. A day after the ruling, Michigan State Corrections Director Patricia Caruso announced after meeting with the assistant attorney general that the state would appeal the ban. Democrat Governor Jennifer Granholm has wormed away from making a public statement on the ruling, saying through a spokeswoman only that she has not yet decided whether or not she agrees with the decision.

In an article buried in the November 15 edition of the *New York Times*, Michigan Department of Corrections spokesman Russell Marlan said the state planned to appeal because top of the bed restraints are "nationally accepted, effective practices in correctional populations."

Marlan told the local *Jackson Citizen Patriot* that the department had voluntarily begun limiting the use of the shackles to "no more than six hours" at a time beginning November 1 and called banning their use extreme and

"inappropriate." The court decision noted that the corrections department had no provisions in place that would prevent back-to-back restraint sessions or ensure that prisoners would not be shackled for six hours every day.

Marlan insisted, revealingly, "Virtually every correctional system in the country uses those restraints, including the Federal Bureau of Prisons. It's a nationally accepted method." In yet another statement to the *Grand Rapids Press*, Marlan added, "To eliminate the use of them altogether is an overreaction to one situation."

In other words, such torture is commonplace, a tool routinely employed in the management of America's 2.2 million domestic prisoners and extended to the unknown thousands of non-citizens held by the US abroad. Fundamental ethical standards are violated, individuals are abused on a regular basis, and guards and administrators perpetrate this abuse with impunity. This "accepted method" is the de facto law of the land as declared from the White House on down, parroted by ignorant, callous jailors and their billion-dollar contracting partners who bristle at what they see as a Constitutional intrusion upon their business.

Constitutional protections against "cruel and unusual punishment" may be non-specific, but they are also unconditional. Torture as defined by the Eighth Amendment is not relative to the character of, or charges against, the individual receiving punishment. To the contrary, protections against torture have nothing to do with the supposed crimes or behavior of the individual, but with the standards of decency and respect necessary for civil society and Constitutional law.



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