

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

CORNELL BOLDEN, KEITH JACKSON,)
MICHAEL AMATO, AND CHARLES MORGAN,)
each individually and on behalf of all others,)
similarly situated)

Plaintiffs,)

v.)

JOHN STROGER, President, Cook County Board,)
in his official capacity; THE COUNTY OF COOK;)
MICHAEL SHEAHAN, Sheriff of Cook County,)
in his official capacity; RUTH ROTHSTEIN, Director,)
Cook County Department of Health Services, in her)
official capacity,)

Defendants.)

CLASS ACTION COMPLAINT

1. Plaintiffs seek declaratory and injunctive relief, pursuant to 42 U.S.C. §12133 and 42 U.S.C. §1983, on behalf of two classes of persons with mental illness confined in the Cook County Jail while awaiting trial on pending criminal charges. In Count I of this Complaint, plaintiffs challenge, as violative of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§12101 et seq., defendants’ policy and practice of barring individuals with mental illness from participation in community and treatment programs, even when these individuals are otherwise qualified to participate in the programs and would benefit from them. In Count II, plaintiffs challenge, as violative of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the ADA, defendants’ policy and practice of discharging individuals with mental illness into the community without the medication and referrals they require to manage their illness.

2. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1331 and §1343.

3. Declaratory relief is authorized by 28 U.S.C. §2201 and Fed.R.Civ.P. 57.

PARTIES

Named Plaintiffs

4. Cornell Bolden has been diagnosed with depression. He has been incarcerated in the Cook County Jail¹ since his arrest on June 8, 2003, for delivery of a controlled substance. Aged 38, he is from Chicago and has been in jail numerous times. He is housed in Division VIII of the Jail, a medical unit designated for, among others, individuals with chronic mental illness.

5. Keith Jackson has been diagnosed with an anxiety disorder. He has been incarcerated in the Cook County Jail since his arrest on June 23, 2003, for possession of a controlled substance. Aged 38, he moved to Illinois a year ago and lived in Chicago prior to his arrest. This is his first incarceration in Illinois, although he has been incarcerated in other states. He has been housed in Division VIII of the Jail, except for a brief stay in Division II and a stay in the Jail's Cermak Hospital.

6. Michael Amato has been diagnosed with schizophrenia. He has been incarcerated in the Cook County Jail since his arrest on November 27, 2002, for drug-related charges. Aged 45, he lives in Oak Lawn, Illinois, with his mother prior to his most recent arrest. He is housed in Division VIII of the Jail.

7. Charles Morgan has been diagnosed with manic depressive illness. He has been incarcerated in the Cook County Jail since his arrest on June 27, 2003, for possession of a controlled

¹ The Cook County Jail is known officially as the Cook County Department of Corrections. It is referred to herein as the "Cook County Jail" or "the Jail."

substance. Aged 43, he is from Chicago where he has resided with his mother. He is housed in Division VIII of the Jail.

The Plaintiff Class

8. The named plaintiffs bring this suit pursuant to Fed.R.Civ.P. 23(a) and (b)(2) on behalf of two classes of individuals with mental illness detained pending trial at the Cook County Jail. The two classes have overlapping members. Some individuals with mental illness detained at the Jail are members of both classes, while others are members of one class only.

9. The first class (the “Count I class”) is comprised of:

All persons with mental illness who are or will be detained prior to trial in the Cook County Jail (excluding persons who have been and remain committed, or will be committed, to the Illinois Department of Corrections upon conviction of a crime) and who meet the bond and charge criteria for release programs or the “pre-release” center administered by the Sheriff.

10. This class meets all of the requirements of Rule 23(a) and (b)(2).

(a) The class is so numerous that joinder of all members is impracticable. There are approximately 1,000-1,500 individuals with mental illness in the Jail. At any given time, an estimated 300 men and 60 women with chronic mental illness are incarcerated in the Jail in Divisions III and VIII alone. A significant number of these individuals would be eligible for release programs or substance abuse treatment programs but for defendants’ exclusionary policies and practices.

(b) There are questions of law or fact common to the named plaintiffs and the members of the plaintiff class. Common questions include: whether defendants maintain policies and practices of excluding individuals with mental illness from release and treatment programs, whether defendants’ exclusion of individuals from release and treatment programs on the basis of their mental illness violates the Americans with Disabilities Act, and whether defendants must make

reasonable modifications to their policies and practices to avoid excluding individuals with mental illness from release and treatment programs on the basis of disability.

(c) The claims of the named plaintiffs are typical of the claims of the plaintiff class as a whole.

(d) The plaintiffs will adequately represent the interests of class members. Plaintiffs have no interests adverse to or in conflict with class members. Their counsel have extensive experience in the areas of class action litigation and civil rights litigation on behalf of individuals with disabilities.

(e) Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole. Defendants have denied the class access to release and treatment programs based on mental illness. The class has a need for declaratory and injunctive relief against defendants' exclusionary policies and practices.

11. The second class (the "Count II class") is comprised of :

all persons: (a) with mental illness who are or will be detained in the Cook County Jail prior to trial (excluding persons who have been and remain committed, or are committed, to the Illinois Department of corrections upon conviction of a crime); and (b) who are or will be discharged into the community; and (c) who have or will have been taking psychiatric medication immediately prior to such discharge.

12. This class meets all of the requirements of Rule 23(a) and (b)(2).

(a) The class is so numerous that joinder of all members is impracticable. More than 200 class members are discharged into the community each month without the medications and referrals they require to manage their mental illness.

(b) There are questions of law or fact common to the named plaintiffs and the members

of the plaintiff class. Common questions include: whether defendants provide detainees upon discharge with the medication and referrals they need to manage their mental illness and function in the community, and whether defendants have a legal duty to provide medications and linkages to treatment services and supports needed for plaintiffs and class members to manage their illness and function in the community.

(c) The claims of the named plaintiffs are typical of the claims of the plaintiff class as a whole.

(d) The plaintiffs will adequately represent the interests of class members. Plaintiffs have no interests adverse to or in conflict with class members. Their counsel have extensive experience in the areas of class action litigation and civil rights litigation on behalf of individuals with disabilities.

(e) The defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole. Plaintiffs and class members have been prescribed medication to control their mental illness. If released without medication and without linkages to needed treatment services and supports, they will likely be unable to manage their mental illness or function successfully in the community. All plaintiffs have a need for declaratory and injunctive relief against defendants' policies and practices pursuant to which they are discharged without necessary medication and without linkages to necessary treatment and support services.

Defendants

13. John Stroger is the President of the Cook County Board, which administers the

County of Cook. As such, John Stroger has a legal responsibility to ensure that the policies and practices of the County of Cook, and its administrative departments, comply with the United States Constitution and the Americans with Disabilities Act. He is sued in his official capacity.

14. The County of Cook operates the Cook County Jail and the release and treatment programs to which plaintiff and the class are denied access. It is ultimately responsible for discharge practices at the Jail. The County of Cook has a legal responsibility to administer its programs and services in conformity with the United States Constitution and the Americans with Disabilities Act.

15. Michael Sheahan is the Sheriff of Cook County. As such, he administers the Cook County Jail and the release and treatment programs to which plaintiffs and the class are denied access. He has a legal responsibility to ensure that the Jail and these release and treatment programs are administered in conformity with the United States Constitution and the Americans with Disabilities Act. He is sued in his official capacity.

16. Ruth Rothstein is the Director of the Department Health Services within the County of Cook. As such, she administers Cermak Health Services (CHS), the health care service provider for detainees in the jail. She has a legal responsibility to ensure that CHS is administered in conformity with the United States Constitution and the Americans with Disabilities Act. She is sued in her official capacity.

**DEFENDANTS' DETENTION, RELEASE
AND DISCHARGE POLICIES AND PRACTICES**

17. Persons who are charged with crimes in Cook County and are unable to make bond (including those charged for crimes for which there is no bond) are detained at the Cook County Jail while awaiting trial. Detainees are screened for medical needs, including mental disorders.

18. The average daily population of the jail in 2002 was 11,019 persons; the daily

population in May 2003 was 10,349 persons. Consistent with national studies of the rates of mental illness within jail populations, it is estimated that at least 10% of the over 10,000 individuals incarcerated in the jail at any given time--at least 1,000 persons--are individuals with mental illness.

19. There are 10 divisions housing inmates within the Jail, serving different population subgroups and having differently configured living quarters. At any given time, some 400 inmates with mental illness are housed in facilities specifically designated for individuals with mental illness – Division III, Division VIII, and the acute care unit, Cermak Hospital.

(a) Division III, the women's special needs division, houses women with mental illness and women with other medical needs. It contains an estimated 353 beds, of which approximately 60 are specifically designated for women with psychiatric conditions.

(b) Division VIII, residential treatment unit (RU) for men, houses males with mental or physical illness. It has 768 beds, of which approximately 300-350 beds are designated for individuals with mental illness. The living arrangements are dormitory-style. The majority of individuals in Division VIII have medium or minimum security classifications.

(c) Cermak Hospital is an acute care unit that serves both men and women with mental illness.

20. Male inmates with mental illness who have maximum security classifications or are otherwise judged to be unable to reside in dormitory-style housing may be assigned to a specialized mental health or medical unit within one of the other divisions.

21. Many inmates with mental illness, including those receiving psychiatric medications, are assigned to general population living quarters.

22. Since at least 1982, the Jail has been overcrowded. During most of the time since

1982, the “overflow” population (the number of people in the Jail exceeding its bed capacity) has numbered in the hundreds, often exceeding 1,000 persons. As recently as January 2003, overflow population was 1,478 persons. Overcrowding affects every division in the Jail, including the RU and Division III. Inmates in the overflow population are given mattresses and sleep on floors either in a cell or in the day room of their assigned tier.

Release Programs

23. Because the Jail has been overcrowded, the County has developed several release programs under which persons who would otherwise be incarcerated in the jail are released into the community while awaiting trial. These are: the Administrative Mandatory Furlough program, which issues “I-Bonds” (I-Bond program); the Electronic Monitoring (EM) program; and the Day Reporting program.

(a) Under the “I-Bonds” program, administered by the Sheriff, persons with low bonds may be released from the Jail on their own recognizance. I-Bonds are issued before assignment of inmates to a division. Since 1986 over 213,991 persons have been released from the Jail under this program. In 2001, for example, 6,536 persons were released under the program.

(b) The Electronic Monitoring (EM) program, which currently serves approximately 1,550 inmates at any given time, permits inmates to be released to a residence as long as the inmate wears ankle bracelets, containing transmitters to the Department of Community Supervision and Intervention (DCSI) within the Sheriff’s Office, and as long as he or she notifies DCSI of his or her whereabouts at all times. Persons eligible for EM may maintain employment or attend school. Individuals enter the program after going through the receiving unit of the Jail or thereafter when determined to meet the qualifications for the program, which are based principally on the nature of their pending charges but may also include consideration of their conduct during incarceration and

prior record. From April 1, 2001, through March 31, 2002, a total of 10,079 persons who would otherwise have remained incarcerated in the Jail successfully completed the Electronic Monitoring Program.

(c) The Day Reporting program, also administered by the Sheriff's Office, is for men only. To be eligible for the Day Reporting program, individuals must first participate in the EM program. In the Day Reporting program, individuals come and go in the community without reporting their whereabouts at all times and they do not wear bracelets. They are required to attend a variety of day programs at the Jail, including substance abuse, health education and vocational training programs. The Day Reporting program currently serves over 600 persons at any given time.

24. Participation in release programs provides substantial benefits. Participation facilitates working, attending education and training programs, and contact with family. In addition, successful participation leads to favorable reports from the Sheriff's Office (through DCSI) that influence the disposition of individuals' criminal cases. Successful participation reduces the likelihood of being sentenced to the Illinois Department of Corrections even if found guilty of the offenses charged.

Substance Abuse Treatment

25. Many inmates in the Jail have a history of substance abuse. Accordingly, in addition to release programs, the Sheriff also administers (through DCSI) a "pre-release" center at the Jail that provides intensive substance abuse treatment. The "pre-release" center, for male inmates only, serves nearly 300 at any given time.

26. Like participation in release programs, participation in the "pre-release" center provides substantial benefits. It can help inmates resolve their substance abuse problems. It also can favorably influence the disposition of their criminal case, for example, by reducing the

likelihood of being sentenced to further incarceration if found guilty.

Discrimination Based on Mental illness

27. Despite these programs' substantial benefits, and although they are otherwise eligible for them, individuals with mental illness are excluded from participation in release programs and the "pre-release" center.

(a) Individuals with mental illness are ineligible for the "I-Bond" program. Some individuals with mental illness are inadvertently accepted into the program when the screening assessment at the Jail fails to reveal a mental illness and the individuals do not self-identify.

(b) Individuals assigned to Division VIII, the residential treatment unit, are ineligible to participate in the Electronic Monitoring program and the Day Reporting program if the basis for their assignment to the division is a mental illness. Those assigned to Division VIII for other medical reasons may, however, be considered eligible to participate in the EM or Day Reporting programs.

(c) Individuals with mental illness are deemed ineligible for the "pre-release" center, and there is no equivalent program for male inmates with mental illness in the Jail.

28. The exclusionary policies and practices described above are the product of prejudice against, and unfounded fears and stereotype concerning, individuals with mental illness.

Discharge Practices

29. Throughout the Jail, there are estimated to be 1,000-1,500 persons who have a mental illness. Most of these individuals are prescribed medication for their illnesses by psychiatrists or other doctors with Cermak Health Services, which provides medical care at the Jail. Medication is delivered by nursing staff to each division daily. Virtually all inmates with mental illness in Division VIII, the residential treatment unit, and in Division III, the women's special needs unit,

have prescribed medication for their mental illness and take such medication while they are in the Jail.

30. Individuals taking psychiatric medications while at the Jail rarely receive a supply of medication at discharge² and are rarely linked to needed treatment services and supports upon discharge. Accordingly, over 1,000 individuals with mental illness are discharged each year from the Jail without the medications and the linkages to treatment services and supports that they need to manage their mental illness and function in the community.

31. From Divisions III and VIII alone, 150 individuals with mental illness are discharged each month into the community. Discharge plans, arranging for the continuation of necessary medications, are developed for approximately 30 of the 150 individuals with mental illness discharged each month from Divisions III and VIII. These plans anticipate that the Jail and/or Cermak Health Services will provide of a supply of medication upon discharge that will last until the inmate is able to obtain a prescription in the community. However, only an estimated half of the inmates in Divisions III and VIII with discharge plans are actually provided medications when they leave the Jail.

32. Discharge plans, arranging for the continuation of necessary medications upon discharge, are rarely developed for inmates with mental illness in divisions other than Divisions III and VIII.

33. When released without necessary medication and without linkages to needed

² “Discharge” occurs when a criminal court determines that there is no longer a basis for continuing an individual’s confinement at the Jail. Reasons for discharge include: (a) being found not guilty at trial; (b) being determined to have fulfilled the maximum sentence for an offense; (c) having a case dismissed for want of prosecution; (d) being sentenced to probation and (e) making bail.

treatment services and supports, inmates with mental illness are often unable to manage their mental illness or function successfully in the community. They may abuse drugs or alcohol, be arrested and re-incarcerated in the Jail, and/or be hospitalized in emergency rooms or institutionalized in state hospitals, all at great cost to themselves, the public, and the County.

34. On information and belief, individuals with medical conditions other than mental illness who require medication upon discharge are provided such medication and are provided linkages to needed medical and supportive services in the community.

35. Programs exist in Cook County, as well as nationally, that have excellent records in helping individuals with mental illness who have been discharged from jail secure the medication and treatment services and supports they need to manage their illness, function successfully, and be reintegrated into the community. These programs are cost-effective when compared to the cost of incarceration in jail and/or to the costs incurred when discharged inmates, lacking needed medications and linkages, are unable to manage their illness and function successfully in the community.

**THE APPLICATION OF THE DEFENDANTS'
POLICIES AND PRACTICES TO THE NAMED PLAINTIFFS**

36. Plaintiff Cornell Bolden has depression. He is housed in Division VIII. He has been prescribed and receives anti-depressants while at the Jail. He has been found eligible for and in the past has received federal disability benefits under the Supplemental Security Income (“SSI”) program.

37. Plaintiff Bolden has been incarcerated for non-violent crimes, including delivery of controlled substances, retail theft, and auto burglary. His criminal history is related to his substance abuse problem.

38. Plaintiff Bolden has a \$60,000 bond, which means he would be released from the jail

while awaiting trial on charges of delivery of a controlled substance if he could pay \$6,000.

39. Plaintiff Bolden has been excluded from release programs and the “pre-release” center because he has been diagnosed with a mental illness and has been assigned to Division VIII based on that diagnosis. He is otherwise eligible for these programs. His mental disability can be reasonably accommodated in a release program or the “pre-release” center. Inmates with similar criminal histories and similar substance abuse problems participate in these programs.

40. Plaintiff Bolden has a residence available to him if found eligible for release pending trial. His sister Angela Godfrey wants Mr. Bolden to reside with her if he is released into the Electronic Monitoring or Day Reporting programs.

41. There is no discharge plan for Plaintiff Bolden that describes arrangements for the continuation of necessary medications upon his discharge or for linking him to needed treatment and supportive services upon discharge. Mr. Bolden has in the past been discharged from jail without access to necessary medications and needed treatment and supportive services, and has relapsed and returned to jail. It is likely that Mr. Bolden will again be discharged from jail without necessary medications and linkages to needed treatment and supportive services, and will again relapse.

42. Plaintiff Keith Jackson has an anxiety disorder. He has been housed in Division VIII of the Jail. He has been prescribed and receives anti-depressants at the Jail. He has been found eligible for and in the past has received federal disability benefits under the Supplemental Security Income (“SSI”) program.

43. Plaintiff Jackson has been previously charged with Disorderly Conduct and Shoplifting in Illinois, but he was not incarcerated for those offenses. Mr. Jackson has a history of homelessness and substance abuse. His criminal history is related to these problems.

44. Plaintiff Jackson has a \$40,000 bond, which means that if he would be released from the Jail while awaiting trial on the charge of possession of a controlled substance if he paid \$4,000.

45. Plaintiff Jackson has been excluded from release programs and the “pre-release” center because he has been diagnosed with a mental illness and has been assigned to Division VIII based on that diagnosis. He is otherwise eligible for these programs. His mental disability can be reasonably accommodated in a release program or the “pre-release” center. Inmates with similar histories and similar substance abuse problems participate in these programs.

46. Plaintiff Jackson has a residence available to him if found eligible for release pending trial. Thresholds, a program experienced in serving individuals with mental illness like Mr. Jackson will provide him housing, supervision, and mental health and substance abuse treatment if he is released to them.

47. Plaintiff Michael Amato has schizophrenia and, when he is not taking prescribed medication, hears voices. He is housed in Division VIII. At the Jail, he receives medication he needs for his condition.

48. Plaintiff Amato has been incarcerated numerous times for substance abuse related offenses. He is engaged in a repetitive cycle of incarceration because he never has had access to an effective treatment program.

49. Plaintiff Amato has \$200,000 bond. He would be released from Jail while awaiting trial on eluding arrest, possession of a controlled substance, aggravated assault, and reckless driving. if he could pay \$20,000.

50. Plaintiff Amato has been excluded from the “pre-release” center because he has been diagnosed with a mental illness and has been assigned to Division VIII based on that diagnosis. He

is otherwise eligible for the program. His mental disability can be reasonably accommodated in the “pre-release” center. Inmates with similar criminal histories and similar substance abuse problems participate in the center.

51. If released from Jail in the Electronic Monitoring Program, Plaintiff Amato would live with his mother. Mr. Amato’s family supports him and seeks help for him. Mr. Amato is known to be a very hard worker when he has employment. His family has not been apprised of his mental illness and his treatment needs.

52. Plaintiff Amato desperately wishes to have effective substance abuse treatment. He is 46 years old and wants to change his life.

53. Plaintiff Amato has not received any intensive substance abuse treatment while at the Jail, although he has been incarcerated there since November 2002.

54. There is no discharge plan for Plaintiff Amato that describes arrangements for the continuation of necessary medications upon his discharge or for linking him to needed treatment and supportive services upon discharge. Mr. Amato in the past has been discharged from jail without access to necessary medications and needed treatment and supportive services, and has relapsed and returned to jail. It is likely that Mr. Amato will again be discharged from jail without necessary medications and linkages to needed treatment and supportive services, and will again relapse.

55. Plaintiff Charles Morgan has manic depression. He is housed in Division VIII. He has been prescribed and receives anti-depressants while at the Jail. He has been found eligible for and in the past has received federal disability benefits under the Supplemental Security Income (“SSI”) program.

56. Plaintiff Morgan has been incarcerated in the past for non-violent crimes: for delivery

and possession of controlled substances, offenses related to Mr. Morgan's substance abuse problem. 57. Plaintiff Morgan has a \$75,000 bond. He would be released from jail while awaiting trial on charges of possession of a controlled substance if he could pay \$7,500.

58. Plaintiff Morgan has been excluded from release programs and the "pre-release" center because he has been diagnosed with a mental illness and has been assigned to Division VIII based on that diagnosis. He is otherwise eligible for these programs. His mental disability can be reasonably accommodated in a release program or the "pre-release" center. Inmates with similar criminal histories and similar substance abuse problems participate in these programs.

59. Plaintiff Morgan has a residence available to him if found eligible for release pending trial. His mother, Margie Stewart, wants Mr. Morgan to reside with her if he is found eligible for the Electronic Monitoring or Day Reporting programs.

60. There is no discharge plan for Plaintiff Morgan that describes arrangements for the continuation of necessary medications upon his discharge or for linking him to needed treatment and supportive services upon discharge. Mr. Morgan in the past has been discharged from jail without access to necessary medications and needed treatment and supportive services, and has relapsed and returned to jail. It is likely that Mr. Morgan will again be discharged from jail without necessary medications and linkages to needed treatment and supportive services, and will again relapse.

CLAIMS AND PRAYERS FOR RELIEF

COUNT I

(Against All Defendants Except Defendant Rothstein)

61. The policies and practices described in paragraphs 23-28, as applied to the named plaintiffs and the plaintiff class (hereinafter collectively "plaintiffs"), violate the Americans with Disabilities Act, 42 U.S. C. §12132.

- (a) Plaintiffs are individuals with disabilities;
- (b) Plaintiffs are qualified to participate in the “I-Bond” program, Electronic Monitoring program, Day Reporting program, and/or the “pre-release” center.
- (c) These are programs, services, and activities of a “public entity” subject to the ADA;
- (d) Defendants have excluded and continue to exclude plaintiffs, on the basis of their mental illness, from participation in the “I-Bond” program, Electronic Monitoring program, Day Reporting program, and the “pre-release” center.
- (e) Defendants have imposed and continue to impose upon plaintiffs eligibility requirements that are not reasonably necessary to the administration of these services, programs and activities.
- (f) Defendants have failed and continue to fail to reasonably accommodate plaintiffs’ disabilities in these programs, services, and activities.

62. Through their conduct described above, defendants have violated and continue to violate regulations enacted pursuant to the Americans with Disabilities Act, including:

- (a) 28 C.F.R. §35.130(a), which provides that “no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”
- (b) 28 C.F.R. §35.130(b)(i), which prohibits a public entity from “deny[ing] a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service [of the public entity].”
- (c) 28 C.F.R. §35.130(b)(iii), which prohibits a public entity from providing a “qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal

opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;”

(d) 28 C.F.R. §35.130(b)(vii) which prohibits a public entity from “otherwise limit[ing] a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit or service;”

(e) 28 C.F.R. §35.130(b)(3)(i), by using “criteria or methods of administration” that have “the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;”

(f) 28 C.F.R. §35.130(b)(3)(ii), by using “criteria or methods of administration” that “have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity’s program with respect to individuals with disabilities;”

(g) 28 C.F.R. §35.130(b)(7), by failing to make “reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability,” where such modification would not fundamentally alter the nature of the programs being offered;

(h) 28 C.F.R. §35.130(b)(8), which prohibits a public entity from “impos[ing] or apply[ing] eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disability from fully and equally enjoying any service, program or activity,” based on criteria that are not necessary for the provision of the services, programs or activities being offered.

63. Plaintiffs pray that this Court award them relief as follows:

(a) Declare that the policies and practices of defendants Stroger, County of Cook, and Sheahan violate the Americans with Disabilities Act, 42 U.S.C. §12132, and its implementing

regulations at 28 C.F.R. §§35.130(a), (b)(i), (b)(iii), (b)(vii); (b)(3)(i), (b)3(ii), (b)(7), and (b)(8);

(b) Enjoin defendants from maintaining and enforcing the policies and practices;

(c) Award such other relief as the Court deems appropriate;

(d) Award plaintiffs their reasonable attorneys fees pursuant to 42 U.S.C. §12205 or such other fee shifting statute as the court finds applicable to this case , and award plaintiffs their costs pursuant to 28 U.S.C. §1920 and 42 U.S.C. §12205.

COUNT II
(Against All Defendants)

64. The policies and practices described in paragraphs 29-34, as applied to named plaintiffs Cornell Bolden, Michael Amato, and Charles Morgan, and the plaintiff class, violate the Due Process Clause of the United States Constitution.

65. These policies and practices also violate the Americans with Disabilities Act, 42 U.S.C. §12132, and the regulations cited in paragraph 62 above, because defendants provide needed medications and linkages to individuals without a mental illness upon discharge but deny such medications and linkages to individuals with a mental disability.

66. Plaintiffs pray that this Court award them relief as follows:

(a) Declare that the policies and practices of defendants Stroger, County of Cook, and Sheahan and Rothstein violate the Due Process Clause of the Fourteenth Amendment of the United States Constitution, and the Americans with Disabilities Act, 42 U.S.C. §12132, and its implementing regulations;

(b) Enjoin defendants from maintaining and enforcing these policies;

(c) Award such other relief as the Court deems appropriate;

(d) Award plaintiffs their reasonable attorneys fees pursuant to 42 U.S.C. §1988 and/or

42 U.S.C. §12205 or such other fee shifting statute as the court may find applicable to this case and award them their costs pursuant to 28 U.S.C. §1920 and 42 U.S.C. §12205.

RESPECTFULLY SUBMITTED,

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