

Compliance Report 1

January 25, 2016

Disability Rights Network of PA vs John Wetzel

Civil Case No. 1:13-CV-00635

This report represents the first Compliance Report following the conclusion of the transition period that ended July 1, 2015. Four institutions were visited: SCI-Huntingdon (July 14-15, 2015); SCI-Smithfield (July 16-17, 2015); SCI-Rockview (October 26-27, 2015); and SCI-Muncy (October 28-29, 2015). At each institution, the structure and activities of the site visit were similar: mental health treatment units toured; treatment and program space visited; PRC meetings observed; structured groups observed; inmates interviewed in group settings or individually; disciplinary files reviewed; use of force and restraint documentation and videos reviewed; and mental health charts reviewed. There were some minor variations based upon the institution's mission. For example, reception process, BMU and ITP toured at SCI-Muncy as they are unique to Muncy as compared to the other male institutions visited. All institutions visited were most accommodating and helpful in ensuring ready and unimpeded access to materials, documents, staffing or inmates requested.

In addition to the institutional tours, the following state-wide documents were also reviewed: COSNPRT reports; disciplinary policy and the clinical reviews of suicide deaths in the early part of 2015. A good deal of time was spent with headquarters' staff when visiting SCI-Smithfield in review and discussion of the PDOC self-monitoring matrix to ensure both the TCC team and the PDOC team use the same indicators to assess compliance with the Settlement Agreement. The discussion will continue during the next quarter.

As described in the orientation report, each of the major areas addressed in the Agreement is set-aside in a table summarizing the major requirements of that particular topic. This is followed by a discussion of the findings, if any, from the orientation site visits as well as a conclusion regarding compliance (substantial, partial or non-compliance) as required by the Agreement. A compliance

finding is not assessed for program areas that were not reviewed in the institutions visited. An example of this situation would be the male reception process since none of the institutions visited this quarter serve a male reception center function.

Screening & Development of IRP at DCC Reception
<ul style="list-style-type: none">• MH evaluation within 7 days of admission (or sooner if clinically appropriate)• Referral to LPM within 72 hours of assessment if inmate SMI or concern about MH of the inmate• Comprehensive psychiatric evaluation by psychiatrist or CNP within 14 days of referral• PRT to generate an IRP within 20 days of SMI determination
Compliance: Not assessed

SCI-Huntingdon, SCI-Smithfield and SCI-Rockview are not reception centers. SCI-Muncy does serve as a female reception center and the process was toured during the site visit. However, since women represent such a small percentage of the PDOC population, a compliance conclusion will not be drawn on this requirement at this time.

However, after reviewing the reception process, I am making a recommendation that DOC consider revising the diagnostic assessment portion of the reception process since it provides the basis of roster assignment and subsequent program eligibility. There are currently no staff actually assigned to this process at SCI-Muncy – it’s more or less an “add on” to other standing caseload responsibilities and it’s solely in the purview of psychiatry and CPRNP, each of whom has a caseload of >250. Other licensed mental health professionals are able to formulate diagnoses and have smaller caseloads and therefore, potentially more time to conduct a comprehensive assessment prior to referring to a psychiatrist or CPRNP for medication management.

Timeliness of the process is quantifiable data; it can be routinely tracked and reported as part of the comprehensive quality improvement program with a simple data base or spreadsheet. Data elements include: # inmates received in a given time period; # referred to LPM; # undergoing comprehensive psychiatric evaluation within 14 days of referral; # having IRP generated within 20 days

of SMI determination; and #s of inmates classified in each A, B, C or D roster. Timeliness of the process, trends and patterns should be regularly monitored.¹

The 5 medical files that are audited during the Regional LPM quarterly visit can augment the quantitative monitoring with some qualitative information such as whether the rationale for the diagnosis is documented and sound, whether the roster placement is appropriate and provide comment on the quality of the IRP developed. (Although as previously noted, the sample size does need to be expanded to permit some assurance of the generalizability of the findings.) In response to the draft Compliance Report, the Department noted that the sample size has been increased for reflect a representative statistical sample. Quarterly reports, not previously submitted to the TCC team were produced as proof of this revised practice.

This is an extremely important area/process as it forms the lynchpin of all of the services and program eligibility that follow including diversion from RHU placement. Related to this concept, PDOC should also consider tracking roster changes, particularly “down grading” from D to C roster or C to B roster. Some chart reviews indicated these changes occurring – and the documentation of the rationale to support the change was lacking.

Housing of Inmates with SMI in RHU
<ul style="list-style-type: none">• At the end of the transition period, inmates with SMI will not be housed in an RHU absent exceptional circumstances. Plaintiffs’ counsel is to be notified.• Even in exceptional circumstances, SMI inmates in RHU will be provide with 10 hours of structured out-of-cell time and 10 hours of unstructured out-of-cell time per week, consistent with the privileges and programming afforded inmates in DTU.• Placement duration will not exceed 30 days.
Substantial compliance

No exceptional circumstances this round; no inmates with SMI in RHU.

¹ The Department responded to the draft report indicating agreement with this recommendation and reported steps were already underway to develop these types of quality assurance reports for self-monitoring.

Residential Treatment Units
<ul style="list-style-type: none">• Housing units for inmates on MH/ID roster that require a residential level of specialized MH care to facilitate return to outpatient treatment.• IRPs updated upon admission and every 120 days; inmate has input into IRP.
Partial compliance

Institutional findings are in the attached appendices.

In general, the housing units are adequate although treatment space is a challenge at SCI-Huntingdon and SCI-Rockview. SCI-Huntingdon has a recreation yard specific to RTU (though RTU inmates can also go to GP yard and gym.) Construction of additional treatment space is underway at SCI-Rockview and there are also plans there for an RTU yard. Many of the RTU inmates at SCI-Muncy attend the day treatment program (DAILE) where treatment space is really quite good.

Participation in structured activities is voluntary and by sign-up and some incentives have been offered to encourage participation. It is not directed by IRP. There are neither the staffing levels nor treatment space currently to permit all RTU residents participation in “specialized mental health care.”

As noted in the orientation report...”There is no program of phases to transition inmates from the RTU back to general outpatient services. Recommend consideration of a phase system in order to manage this bed space/resource effectively. While some SMI inmates may require long term or permanent RTU placement due to their level of functioning and/or vulnerability, the majority will be able to step down to general outpatient care. A phased system would assist with continued stay or discharge decisions by permitting a gradual reintegration back to outpatient services.” A system to monitor utilization of this resource is necessary to ensure appropriate movement through the system and to determine RTU bed space need. (Some of the RTUs were formerly known as Special Needs Units where there was less emphasis on treatment and more on safe/sheltered housing for vulnerable individuals. It will take more time and resources to convert all of those beds to active, specialized mental health care treatment beds.)

The Department indicated a preference not to adopt a phased program system with the RTUs in response to the first Compliance Report draft. This is certainly within the Department’s prerogative and the TCC agrees that there are other means to monitor utilization review/bed management. It will become increasingly important as the mental health care system continues to evolve to ensure that inmate patients are placed at the appropriate level of care to meet their needs and as these housing units evolve from special needs, general population housing to actual residential **treatment** units, if that is the Department’s intent. Current mental health staffing levels and program space do not permit in-unit activity participation for all inmates assigned to RTUs.

<p>Secure Residential Treatment Units</p> <ul style="list-style-type: none"> • SRTU housing for inmates on MH roster who are threat to safety and security of staff and other inmates in a less secure environment. • IRPs updated at admission and every 30 days thereafter. IRPs reviewed with inmate in out-of-cell contact. • Minimum 20 hours out-of-cell time per week: 10 hours structured activity and 10 hours unstructured • Phase system in place to earn privileges. • Inmates may be in DC or AC status while in SRTU; DC status inmates receive credit for disciplinary time while in SRTU.
<p>Partial compliance</p>

SCI-Smithfield, SCI-Rockview and SCI-Muncy have opened SRTUs. Comments pertaining to the individual units are in the attached institution-specific appendices attached. As found during the orientation visits: “Programming, and particularly what constitutes structured vs. unstructured activities, and how they are documented and tracked likely presents one of the biggest challenges to achieving compliance with the Agreement.”

Activities offered continue to be heavily weighted toward recreation and interactions offered by non-mental health staff. All important and of value in terms of getting inmates out of cell and engaged in pro-social interactions with others, and also able to be “counted” toward the 10 hours of unstructured activity, but not necessarily structured treatment.

There have been some strides made in documentation since the orientation visits. A form to document participation in some mental health group activities in the medical record has been developed. (It will be implemented in the next quarter.) Additionally, SCI-Huntingdon developed a more reliable way to track out of cell time by having COs responsible for escort to track it on an excel spreadsheet in the DTU. It should still correlate with chart entries but more mathematically reliable than the former method that used staff schedules, ICAR entries, medical record entries and unit schedules to calculate. It may be worth replicating in other institutions operating treatment units. (There are still issues with respect to the correct identification of out of cell as structured vs unstructured, but does represent an improvement in the tracking mechanism.)

These units are still new and not fully operationalized, but for the most part, inmates appear to be offered activities by virtue of what activity is being conducted. Structured activities should be based upon some measure of clinical need, as opposed to generic hours of activity "x". It also has to be documented – it's a part of treatment – and it has to be able to be measured/quantified. This includes both group and individual interventions. If there are 60 inmates on a unit and a structured activity is offered in treatment room 1 that contains 10 modules, only those 10 inmates that participate can truly be recorded as having been offered and received that activity. It cannot be recorded as if all 60 inmates were offered the structured activity because they couldn't possibly participate.² Implementation of the newly developed group treatment form to document actual participation in the medical record will assist the record-keeping process.

There are some inmates that are refusing almost all out-of-cell activity, structured and unstructured, and this must be addressed by the individual treatment providers at the institutional level but also from the administrative level. If D roster inmates are housed in secure settings like SRTU and

² The Department responded that in fact, all 60 inmates would not be counted as having been offered the activity. The problem remains that there is no uniform, consistent and accurate tracking mechanism in place at this time to reliably document and calculate structured and unstructured out of cell time per inmate. It is staff report and calculations based on a number of factors including officer logs, weekly unit activity schedules, ICAR notes, medical records, etc.

DTU (or BMU) but not getting out of their cells, then there really is no treatment being provided and the conditions are just the same as RHU. Cell front contacts are important but not treatment.

Diversionsary Treatment Units
<ul style="list-style-type: none">• SMI inmates subject to sanction for a serious disciplinary infraction on DC status may be assigned to a DTU• IRPs updated at admission and every 30 days thereafter. IRPs reviewed with inmate in out-of-cell contact.• Minimum 20 hours out-of-cell time per week: 10 hours structured activity and 10 hours unstructured.
Partial compliance

SCI-Huntingdon, Rockview and Muncy have opened DTUs and institution specific comments are in the attached appendices. The more general finding for the DTUs is the same as that related above regarding structured and unstructured out-of-cell activities and the need to address the treatment needs of those inmates who consistently refuse to come out of their cells.

Disciplinary Process for Inmates with SMI
<ul style="list-style-type: none">• Certain Class I charges and Class II charges raised against SMI inmates will be resolved through an informal process.• Serious charges are sent to Hearing Examiner for formal resolution.• For SMI inmates, psychology staff (not currently in a treatment relationship with inmate) conducts at out-of-cell interview to determine D roster status; contraindications to RHU placement; and any other pertinent information that could inform the decision of the hearing examiner.• No discipline for self-harm or for destruction of property for self-harm.
Partial compliance

The new policy and procedure was finalized and implemented. It is too early to assess the effectiveness of the process at this time. However, one incidental finding bears watching: more misconduct reports are issued to C and D roster inmates proportionally when compared to the number of reports issued to general population inmates. This may be a fluke of the early stage of policy implementation and may change with the passage of time. However, it should be tracked as it may reflect upon the effectiveness of staff training in terms of their capacity to recognize behaviors that may be a function of mental illness and refer for treatment intervention rather than disciplinary intervention

(depending on the severity of the behavior, of course.) Additionally, the Regional LPMs may wish to ensure that problematic behaviors occurring in residential MH treatment units are addressed in the context of the inmate’s treatment, and not solely as a disciplinary matter. (In fact, generally, on treatment units, problematic behaviors are addressed in the context of the treatment plan rather than through the inmate disciplinary process. Of course, this is also related to the nature and severity of the behavior but even in instances in which a misconduct report must be issued, the behavior needs to be addressed in treatment as well as the disciplinary process.)

Placement of Inmates with SMI in DC or AC Status During the Transition Period
<ul style="list-style-type: none"> • SMI inmates in DC or AC status placed in RHU during transition will be assessed by psychology within 72 hours of initial placement & every 7 days thereafter; assessment occurs out-of-cell at least once every 30 days. Psychology can move the inmate out of RHU if such placement is clinically contraindicated. Plaintiffs’ counsel and TCC notified of any inmate staying longer than 30 days. • Offered minimum 20 hours out-of-cell time (10 structured and 10 unstructured).
Transition period ended July 1, 2015. This item will be removed from subsequent reports.

Evaluation of Inmates who have not been identified as SMI housed in an RHU in either AC or DC status
<ul style="list-style-type: none"> • Psychology staff rounds in RHU 5 days per week. Out-of-cell contact if warranted. • Psychology or nursing staff assess suicide potential every inmate within 24-hours RHU placement. • Different contact and frequency contacts based upon roster status (A,B,C) • Annual psychological evaluation. • If SMI is determined at any time –IRP within 72 hours and transferred to appropriate therapeutic unit within 72 hours (absent exceptional circumstances.)
Compliance not assessed

RHU requirements were not reviewed during the orientation visits. RHU logs documenting psychology rounds and medical records of a sample of RHU inmates will be reviewed during subsequent visits to assess compliance.

Suicide Prevention & Use of Psychiatric Observation Cells
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| <ul style="list-style-type: none">• Serious suicide risk requires placement in MHU or POC; observation in POC continuous with documentation at random intervals not to exceed 15 minutes.• PRT assigned and will meet within 7 days of POC discharge to updated IRP; monitored for at least 30 days after POC.• POC 72 hours; evaluated daily by psychology work week, nursing staff contact two shifts daily• Property determined by MH professional though default is institutional clothing unless clinically contraindicated.• Clinical reviews conducted on serious suicide attempts and each death by suicide. |
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Partial compliance

POC cells were reviewed at each institution visited during orientation. Comments are in institutional reports in appendices. Some cells required minor retrofitting to improve safety – some of this commenced immediately during the site visit which is further testimony to the Department and individual institutions’ commitment to the concepts embedded in the Agreement. Regional LPMs should check that actual monitoring and documentation occurs at random intervals during their site visits. (Some logs with pre-printed 15-minute intervals were seen during the site visits.) Sample size was small (4 institutions) but it did not appear that the MH professionals based initial inmate property allowance on an individualized assessment – the default was suicide smock, blanket and no property.

Use of Force & Restraints

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| <ul style="list-style-type: none">• Medical and psychiatric clearance for use of restraint; 15-minute checks by officers; nursing assessment initially and every 2 hours & when released. Initial duration four hours then Facility Manager must authorize another 4 hours. Must have a face-to-face examination by psychiatrist/CNP at 8 hours.• Placement into restraints and duration of restraints videotaped. |
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Partial compliance

Use of force videotapes and restraint chair placements were reviewed during the site visits. Videos generally documented attempts to de-escalate situations verbally before and during planned uses of force. Restraint chair use appears to be relatively infrequent. Generally, medical pre-clearance for placement is obtained and nursing documents evaluations of circulatory and respiratory status. Documentation of the approval for some instances of placement beyond four hours was not apparent.

Individual institution findings are in the attached appendices. There was one major problem incident involving use of a restraint chair at SCI-Rockview where the inmate was able to free himself from the chair, break the chair and dismantle a large piece of metal that could have been used to harm himself or staff responding to the incident. (Fortunately, he surrendered the metal peacefully.) The inmate was supposedly under continuous observation via closed circuit camera throughout this time period but clearly he was not being monitored/observed appropriately. On a more positive note, there does appear to be a meaningful multi-level written review process of all use of force incidents at the institutional level to include constructive criticism and suggestions for training.

Training
<ul style="list-style-type: none"> • Suicide prevention training for all staff in accordance with policy 5.1.1. • All staff to have MHFA by 7/1/15. New staff trained within 30 days. • CIT Training for staff that work in MH housing units and others whose job duties require frequent interactions with SMI inmates. 1,000 staff will have this training by 1/1/17.
Substantial compliance

The Department has demonstrated a high level of commitment to this training initiative and is well ahead of the pace to achieve the goal of CIT training to 1,000 staff by 1/1/17. MHFA training goals have also been met.

Staffing
<ul style="list-style-type: none"> • Sufficient clinical and rehabilitative staff to provide programming; • Sufficient COs to escort and personnel trained to work with SMI and comply with provisions of the agreement.
Partial compliance

There were 96 new staffing positions created and filled during FY15 to provide mental health care and support. Funding for approximately 70 additional positions in FY16 has been requested. In addition, the Department has prepared a proposal for additional psychiatry and advance practice nurse positions which is under review.

The TCC team, defendants and plaintiffs plan to review the staffing plans and proposals together to ensure that the clinical positions are sufficient to support the mental health mission of the newly created residential treatment units as well as the on-going outpatient treatment needs of the general population. A spreadsheet to track and identify positions and vacancies by institution and program level is under development.

There were no instances in which there appeared to be insufficient numbers of COs or other security staff to provide escort, supervision and participate in appropriate meetings such as PRC.

SUMMARY

Overall, results of this very first compliance visit following the conclusion of the transition period are impressive: there were no areas of non-compliance; 7 areas of partial compliance and 2 areas of full compliance – training and no placement of inmates with SMI in RHU! Two areas were not fully assessed – the reception process and psychological monitoring of non-SMI inmates in RHU. One item is now moot which will leave only 12 to review in subsequent visits and reports. (The substantially compliant provisions will be removed in the next round assuming continued compliance for a year.) This is summarized in the following table.

Area Addressed in Settlement Agreement	Degree of compliance
Screening & IRP at DCC Reception	Not assessed
Housing of SMI in RHU	Substantial compliance
RTUs	Partial compliance
SRTUs	Partial compliance
DTUs	Partial compliance
Disciplinary process for SMI	Partial compliance
Placement of SMI in RHU during transition	Moot - transition period ended July 1, 2015.
Psychological assessment RHU inmates (non-SMI)	Not assessed
Suicide prevention & use of POC	Partial compliance
Use of force & restraints	Partial compliance
Training	Substantial compliance
Staffing	Partial compliance

Areas of focus for the next round include:

- Structured activity vs recreation/leisure
- Additional mental health programming in residential treatment units (RTU, SRTU, DTU and BMU)
 - Treatment of inmates who remain in cell
 - Confidential mental health interventions
 - Use of “accountability” status
- IRPs (truly individualized and identification of interventions specific to needs)
- Development of a system to monitor roster assignments and changes
- Male reception process
- Mental health staffing levels and ratios
- Mechanisms/processes in place for self-monitoring

Submitted by:

/s/

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25 January 2016