

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA PROTECTION AND ADVOCACY)
SERVICES COMMISSION, *et al.*,)

Plaintiffs,)

v.)

No. 1:08-cv-01317 TWP-MJD

COMMISSIONER, INDIANA DEPARTMENT)
OF CORRECTION,)

Defendant.)

Parties' Further Status Report

The parties, by their counsel, file their Further Status Report in this matter.

1. On February 28, 2020, counsel for the plaintiffs and defendant were given a tour of the Pendleton Treatment Unit by staff from both the Department of Correction ("DOC") and Wexford of Indiana, LLC.
2. As previously reported, the structure where treatment was provided to the prisoners in the Treatment Unit was destroyed by fire in September of 2018.
3. The hope was that the structure would be completely rebuilt and reopened for use in 2019.
4. Unfortunately, the project has been delayed, although construction is now occurring.

5. It is anticipated that the structure will be opened and ready to provide services by June of 2020.

6. In the absence of the building, most treatment groups are meeting in the prisoner living units, although some are being provided in a separate building.

7. Because there is not enough physical space for the groups to meet as frequently as desired and as set out in the parties' Private Settlement Agreement, the required 10 hours of out-of-cell treatment a week are not currently being provided at Pendleton.

8. Also at times correctional staff are not available at Pendleton to facilitate movement of prisoners. This also negatively impacts the ability to provide group therapy.

9. As a result of these circumstances, some prisoners in the Treatment Unit are only receiving 3-5 hours a week of group therapy.

10. Currently the unit is staffed to be able to provide the required 10 hours of out-of-cell treatment a week and the DOC anticipates that once the new building is completed, the 10-hour-a-week standard will once again be met.

11. The new building will contain 8 classrooms as well as 11 offices for treatment staff.

12. In order to address prisoners with both mental health and addiction issues, the D building within the Treatment Unit, previously housing seriously mentally ill prisoners, now houses prisoners with substance abuse, as well as mental health, issues and the treatment provided to these prisoners addresses both needs.

13. During the tour, DOC and Wexford staff discussed the treatment of seriously mentally ill prisoners throughout the DOC, including at the psychiatric unit at the New Castle Correctional Facility.

14. In order to properly track mentally ill prisoners and provide for their treatment, there is state-wide review of prisoners with DOC and Wexford staff every Friday.

15. The list of seriously mentally ill prisoners deemed to be too dangerous to be moved out of restrictive housing remains low, approximately 16 at the time of the tour at Pendleton. These prisoners are formally reviewed by mental health staff at their institutions every other week and by classification staff every month to determine if they can be safely moved out of restrictive housing.

16. The DOC staff person ultimately responsible for approving the determination that the prisoner is too dangerous to move out of restrictive housing rigorously reviews requests that a prisoner be determined to meet this category and rejects most such requests. Generally, prisoners who fall into this category do so because of a lengthy history of assaultive behavior on staff.

17. The DOC and Wexford are currently reviewing various policies and protocols concerning prisoners with potential suicidal behavior so as to better assure prisoner safety.

18. The DOC continues to provide plaintiffs' counsel with access to prisoner medical records and responses to questions raised by plaintiffs' counsel on behalf of their clients.

19. While the inability of the Pendleton Treatment Unit to provide the minimum weekly treatment hours required by the Private Settlement Agreement is obviously of concern, plaintiffs' counsel has no doubt about the commitment that the DOC and Wexford have to providing the prisoners with treatment and attempting to meet the terms of the Private Settlement Agreement.

20. In Docket Number 649 in this action, the parties agreed to extend the Private Settlement Agreement for a period of one year after the settlement agreement was terminated in the case of *Mast v. Donahue*, No. 2:05-cv-00037-JPH-DLP.

21. The *Mast* settlement was terminated on July 23, 2019. (Dkt. 164, No. 2:05-cv-0037-JPH-DLP (S.D. Ind. July 23, 2019)).

25. Therefore, at the current time, the Private Settlement Agreement in this case will expire on July 23, 2020.

26. In light of the importance of the Pendleton Treatment Unit in the treatment of seriously mentally ill prisoners within the DOC, and in light of the fact that the Unit has been operating at a reduced capacity because of the fire and the destruction of the building in which treatment was provided, plaintiffs have proposed that the Private Settlement in this case be extended an additional one year, to July 23, 2021. This would allow the DOC to achieve and maintain full compliance with the terms of the Private Settlement Agreement before its termination.

27. The DOC is considering this proposal and the parties will report to the Court the result of plaintiffs' request.

WHEREFORE, the parties file their status report.

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