Disability Law Center, Inc. vs Massachusetts Department of Correction, et al.
Civil Action No. 07-10463 (MLW)

Sixth & Final Report of Designated Expert Kathryn A. Burns, MD, MPH

Dates of Site Visit: March 9-10, 2015
Date of Report: March 20, 2015

Sites visited:
MCI-Cedar Junction (MCI-CJ)

- Departmental Disciplinary Unit (DDU)
- Special Management Unit – 10 Block (SMU)
- Behavioral Management Unit (BMU)

Additional Information reviewed:

- Data submission required in Settlement Agreement
- Medical Records of selected inmates
- Response to 5th report

Preliminary findings were discussed on site during the exit interview. A summary is provided here. As with all past reports, a synopsis of the inmate interviews is attached.

MCI-Cedar Junction

MCI-Cedar Junction was visited on March 9-10, 2-15. Interviews and record reviews were conducted. The DDU, SMU and BMU were visited.

In the interim between site visits, MPCH continued to study the out-of-cell contact in DDU and there was documentation in progress notes this tour of attempts to encourage out of cell interactions that were not previously present.

Unfortunately, Inmate [redacted] who is identified as SMI but was in the DDU awaiting STP transfer at the time of the November site visit, was still in the DDU awaiting transfer at the time of this visit. However, he was being offered the additional contacts, his condition was good and we were advised that he was going to be transferred to STP later that week.

Inmate [redacted], confined in SMU for approximately a month at the time of the site visit, had also been identified as SMI and a referral for STP placement had been made. Again, at the exit interview, MPCH staff reported that the referral had been reviewed and [redacted] was approved for placement in STP. He will remain at MCI-CJ pending his transfer.

BMU inmates expressed concern about a recent change in the incentive program which MPCH acknowledged was done to encourage more active program participation, rather than simply being rewarded for not engaging in negative behaviors. The BMU inmates reported all inmates were cuffed and pulled out for medication administration. This was not indicated in the physician's orders or on the

medication administration records. The superintendent reported that this practice is not used on all inmates – only those for whom it is indicated by virtue of their having misused medication. In either instance, there should be clear documentation in the clinical file and physician's orders if a special procedure is utilized.

It was noteworthy that the first BMU group which included inmates who had been in the program from its inception, showed no progress in the ability to conduct the most basic social interactions without breaking into shouting arguments, insults and failing to let others speak without interruption. There were several additional observations and inmate complaints that may warrant DOC and/or MPCH review:

- [redacted] appears doing much worse compared to 2 monitoring visits ago;
- The inmates reported no clear picture or understanding of how they would be transitioned out of the BMU effectively;
- [redacted] reported doing 2.5 weeks on "accountability status," the conditions of which are starker than segregation;
- With the exception of one inmate, the second group reported that they cannot take their journals into their cells and had to be stored in the open cubbies in the clinical office, ostensibly because the journals have cardboard covers. As a consequence, prisoners are reluctant to write anything personal in their journals, and some will not write anything at all because the information is not maintained in a confidential manner. Given that the journals may have therapeutic value, DOC might explore providing a notebook with a soft cover.
- Almost all of the inmates reported being deterred from recreation or other out of cell activity because their cells would be searched by corrections officers. I appreciate that DOC officials said during the debriefing that this does not happen. However, there remains this perception, which is a problem itself. I'd encourage DOC to explore direct communication with BMU inmates on this issue.

Suggestions that diagnoses be reconsidered in light of past outside treatment records, prior DOC treatment records, past eligibility for SSI, history of psychiatric hospitalization, psychotropic medication management and little interaction for months other than brief cell front monthly contacts and rounds were acted upon: MPCH continued the practice of completing extensive clinical reviews of several inmates we spoke with during the previous site visit. Although it may have been more productive to use the extensive reviews conducted for additional quality improvement purpose such as psychiatric peer review, treatment plan quality improvement, compliance with MPCH laboratory monitoring policy or improvement in psychiatric documentation of prescribing rationale, if any of the findings were put to these types of additional uses, it wasn't shared in the summaries provided or in the responses to past reports. Nevertheless, inmates and their histories were carefully re-examined which really was the point of the suggestions. Additionally, the most recent file reviews demonstrated that medication-specific written informed consent forms have begun to be utilized in addition to the more generic "Explained rationale, benefits, risks and side effects of proposed treatment or medication" previously noted on progress notes. Both the extensive review process and the more specific informed consent practice are positive steps in improving quality practices.

Finally, perhaps the most important outcome of this entire process is the recently passed legislation relative to conditions of confinement and the treatment of inmates with serious mental illness, which

was fully supported by the Department. It is indicative of the commitment to ensure processes and programs developed in the course of this lawsuit and settlement agreement continue. I am pleased to have played a very small part in the process and extend my gratitude to both parties for having entrusted me to assist in this very important task.

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Kathryn A Burns MD, MPH