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

Fourth Report of Designated Expert Kathryn A. Burns, MD, MPH

Dates of Site Visit: June 9-10, 2014
Date of Report: July 11, 2014

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

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

Souza Baranowski Correctional Center (SBCC)

- Special Management Unit
- Secure Treatment Program (STP)

Additional Information reviewed:

- Data submission required in Settlement Agreement
- Medical Records of selected inmates

Concerns were raised and recommendations offered on site during the exit interview. Additional summary detail is provided here. A synopsis of the inmate interviews is attached.

MCI-Cedar Junction

MCI-Cedar Junction was toured on June 9, 2014. As in past visits, interviews with individual inmates were held with prisoners in DDU and SMU. BMU inmates were interviewed in a group setting but one prisoner was in a holding cell alone and another was spoken to briefly at cell front in the "accountability" cell.

The previously identified concern regarding the failure to identify inmates as SMI persists. This impacts access to care. There also appeared to be an increase in the number of cell front visits for mental health contacts in the DDU than on prior occasions. A recommendation was made to conduct a quality improvement study regarding the location of mental health contacts in the DDU to determine whether or not the observation is substantiated by data. This will also permit the institution to monitor the issue and identify any trends or patterns that can be addressed/corrected. (Cell front visits are not regarded as appropriate treatment because they are not confidential.)

Mental health rounds were observed during the site visit and were quite cursory and could serve no sort of surveillance function when conducted in this fashion. Perhaps the observed rounds were atypical but they certainly matched inmate descriptions of them as "drive-by" in nature. In any event, because

MPCH considers rounds to be such a key element in identifying signs of SMI deterioration in segregation, an additional recommendation for some clinical supervision of this important activity is offered here.

Souza Baranowski Correctional Center (SBCC)

SBCC was visited on June 10, 2014. Group interviews were conducted with inmates in the STP and individual interviews were conducted with three SMU inmates. Time did not permit a thorough review of the medical records.

The STP (and to a lesser extent BMU) group treatment interventions pose significant challenges to mental health staff due to the "mixed" nature of the populations – relatively "new" admissions mixed in with patients that have been in the unit(s) for multiple years. Finding a treatment curriculum that is applicable to this disparate population mix is quite difficult. Some inmates have literally been through every sort of treatment curriculum offered, often more than once, while others are new to it.

In addition to the challenge of appropriate treatment curriculum, I have a concern that the length of stay in BMU and STP are proportional to the length of original DDU sanction rather than being based solely on clinical improvement. ([redacted] at STP and [redacted] at BMU are illustrative cases.) The system would benefit from some true utilization review/utilization management to address this issue. Hospitals and insurance companies use independent clinician reviewers to objectively review records to determine whether or not the patient continues to meet the criteria for an inpatient (or in this case, residential) stay. STP and BMU bed space is already quite limited given the size of the MDOC population, but it is further compromised by holding on to inmates year after year, even though they have achieved whatever treatment goals have been set or attained the highest level of privilege in the units.[1]

Further, although defendants have denied it when raised in the past, we again found inmates that were slated to wrap up their prison sentence being released in short order to the street directly from the BMU. Failure to provide any transitional phase treatment or adequate preparation for release into the community is not only clinically inappropriate but irresponsible to the general public.

Opinion:

I have very grave concerns regarding the screening and evaluation process and a system that continues to minimize diagnoses which denies eligibility for treatment. There is a dis-connect between the types and numbers of psychotropic medications prescribed and trivializing/minimizing diagnoses even while prescribing powerful antipsychotic medications and/or multiple antidepressant medications. Cases of undesignated SMI inmates have been identified on every site visit. The "process" developed by defendants to address the concerns that have been raised appears to crystalize improper diagnoses and practices rather than leading to any true quality improvement or enhanced clinical practice.

[1] Lack of bed space creates access problems and, over time, may also contribute to the failure to accurately classify inmates as SMI.

I fear that the pattern of underdiagnosis has undermined the intent to protect inmates with SMI from the psychological harm associated with segregation. Here are just a few examples that demonstrate the severity of problems:

- The system rejects its own previous diagnoses, treatment records and outside hospital records in favor of accepting a local jail's diagnosis and downgrading an offender's diagnosis from SMI to substance abuse. ([redacted])
- The system has evolved to endorse treatment of substance abuse with antipsychotic, antidepressant and mood-stabilizing medications, which are not recognized treatments for substance abuse. They are recognized as treatment for mental illness.
- The system doesn't identify an offender who was previously and specifically removed from DDU because of SMI or prevent his return to the very same noxious environment from which he was removed. Only this time, with no treatment, the offender is rather miraculously not only not SMI, he's not even on the mental health caseload! ([redacted])
- It has become a system in which SMI classification can be removed, all psychotropic medications discontinued with re-emergent but untreated symptoms that contribute to behaviors that endanger staff but still, the offender is without treatment and housed in the SMU facing very serious charges. ([redacted])
- It is a system in which an inmate with a Roger's treatment order at admission permits the order to expire, changes medications and then fails to adequately monitor the medication change or inmate's response, or obtain serum blood levels timely to adjust the dose for months at a time. Consequently, when the manic condition breaks through and the inmate is confined to segregation for behaviors related to his poorly and under-treated SMI, he is not identified, diverted, offered extra services or even provided an adequate dose of medication. ([redacted])

In my judgment the screening and evaluation process required by the Agreement to identify inmates with SMI is not working to exclude inmates with SMI from the DDU. Systemic problems with identification and access to a higher level of mental health care persist.