

JEFFREY L. METZNER, M.D., P.C.
3300 EAST FIRST AVENUE
SUITE 590
DENVER, COLORADO 80206

TELEPHONE (303) 355-6842
FACSIMILE (303) 322-2155
TAX ID #84-0848664

January 5, 2013

To: Michelle Parker, Esq.
Erie County Department of Law
95 Franklin St., Room 1634
Buffalo, NY 14202

Marlysha Myrthil, Esq.
U.S. Department of Justice
P.O. Box 66400
Washington, DC 20035-6400

From: Jeffrey L. Metzner, M.D.

Re: *USA v Erie County et al.*

As you are aware, from November 26-30, 2012 I site visited the Erie County Holding Center (ECHC). During the morning of November 28, 2012, I also site visited the Erie County Correctional Facility (ECCF). Michael Ranney (Director of Forensic Health Services) accompanied me throughout this site visit.

Sources of information utilized in compiling this report included review of the following documents:

1. the Forensic Mental Health Constant Observation audits (2nd and 3rd quarters),
2. the 2012 Constant Observation Annual Report,
3. the "Overview of FMH Overall Mental Health Charts (July-September 2012)" report,
4. minutes and agendas of the suicide prevention leadership group meetings,
5. minutes of the mental health review committee,
6. minutes of the correctional health review committee, and
7. review of 30 healthcare records of mental health caseload inmates.

During the site visits, I had the opportunity to meet with the following persons:

1. Michael Reardon (First Deputy Superintendent/Compliance),
2. Ellery Reaves (Commissioner, DMH),
3. Michael Ranney, M.S., CRC (Director of Forensic Health Services),
4. David Marciniak, R.N. (Director of Correctional Health Services),

Psychiatric Assessment

Re: ECHC and ECCF

Page 2 of 5

5. Michael Cummings, M.D.,
6. Heidi Milch and other staff from the Community Connections of New York,
7. Evelyn Coggins, M.D. (Chief Forensic Psychiatrist),
8. Daniel Antonius, Ph.D.,
9. correctional officers in various housing units, and
10. most of the line mental health staff in two group settings.

Overview

Please refer to my January 2012 site assessment report for an overview of the Erie County Correctional Center (ECCF) and the Erie County Holding Center (ECHC). Both facilities are under the authority of Erie County Sheriff and are managed by the Superintendent of the County's Jail Management Division (JMD).

During November 28, 2012 the inmate count at ECHC was 530 inmates (which included 12 keep-lock status inmates) and the inmate count at ECCF was 773 inmates (which included 33 keep-lock status inmates).

During November 28, 2012, there were 9 inmates (which included 5 females) on constant observation status at ECHC. The census in the Delta housing units was 84 inmates. There were 12 male inmates in the Gulf East housing unit.

The number of inmates receiving mental health treatment since June 2012 was as follows:

2012	ECHC	ECCF
Jun	225	221
Jul	230	226
Aug	237	230
Sep	240	233
Oct	239	211

The average caseload per QMHP at ECHC was 30 inmates and the caseload per QMHP at ECCF ranged from 48 to 79 inmates per QMHP.

Staffing

Appendix I provides relevant staffing information for ECHC and ECCF. ECHC and ECCF have a total of 14.0 FTE mental health clinicians, with one QMHP vacancy, and will have another 2.0 FTE positions in 2013. The 2.75 FTE psychiatrists and nurse practitioners positions will increase to 3.8 FTE positions in 2013. During the site visit, ~10.0 FTE mental health clinicians were assigned to provide services at ECHC in addition to a 1.0 FTE discharge planner. There was a 1.0 FTE clerical staff within ECHC assigned to the mental health services, which currently is vacant. As a result, the QMHPs' duties included a significant amount of clerical functions. ECCF currently has 3.0 FTE mental health clinicians.

Psychiatric Assessment
Re: ECHC and ECCF
Page 3 of 5

The Intake Healthcare Screening Process

My January 2012 report included the following:

Related to a change in a contract with the City of Buffalo that will be effective reportedly around April 2012, the number of daily intakes will be decreased by at least 50% beginning in April. Currently, daily intakes ranged for 60 to 70 inmates per day, with most of them occurring between 7 a.m. - 6 p.m. After April 2012, the QMHP staff within the reception area can be reduced and re-directed to the outpatient and residential level of mental health care services as will be described elsewhere in this report. The anticipated infrequent booking that will occur after 6 p.m. will receive suicide risk assessments in a process that will be soon described by policy and procedure that will be consistent with the Stipulated Order of Dismissal.

November 2012 update: Related to the change in a contract with the City of Buffalo, the intake health care screening process has been changed to eliminate the Nurse A screening process for male detainees. From June 1 – October 31, 2012, ECHC has averaged 51 bookings /day and ECCF has averaged 22 bookings/day.

Attachment E summarizes the number of mental health referrals originating from the intake process and the number of positive “hits” from a mental health perspective.

The Stipulated Agreements - Executive Summary

The Stipulated Settlement Agreement and Order Concerning Suicide Prevention and Related Mental Health Issues

As compared to my June 2012 assessment, all of the provisions previous assessed to be in substantial compliance have remained in substantial compliance. Two additional provisions have been found to be in substantial compliance (see Appendix III). At the present time, all provisions of this Agreement that are being monitored by me within this Agreement are now in substantial compliance. Appendix IV provides a summary of the relevant findings and dates that substantial compliance was found.

By previous agreement of the parties and with approval from Ronald Shansky, M.D., all provisions of this Agreement directly referencing detox services are monitored by Ronald Shansky, M.D. because it will be a more efficient and effective process in the context of his other TCC responsibilities. These provisions are summarized in Appendix VI.

Other provisions of the Suicide Prevention Stipulation continue to be monitored via the Stipulated Order of Dismissal, although specific provisions of the former still apply.

The Stipulated Order of Dismissal

Psychiatric Assessment
Re: ECHC and ECCF
Page 4 of 5

The most significant progress re: the provisions of the Stipulated Order of Dismissal since the June 2012 site visit has been the progression of the credentialing process for the mental health clinicians, especially at ECHC. The impact of this process includes more comprehensive and clinically meaningful assessments and treatment plans.

Seventeen of the eighteen provisions of the Stipulated Order of Dismissal that were assessed to be in substantial compliance during previous site visits have remained in substantial compliance. An additional 5 provisions have been found to be in compliance during this site assessment. Appendix X lists these provisions. All other provisions of this Stipulated Order are in partial compliance.

I remain encouraged by the leadership exhibited by Mr. Ranney, Dr. Antonius, Dr. Cummings and Dr. Coggins and the evolving QI process. The relationship between DMH and the University of Buffalo's Department of Psychiatry has been crucial in improving the mental health services. As in the past, the leadership and corroborative actions demonstrated by First Deputy Superintendent/Compliance Michael Reardon have also been essential in this process.

Appendices

The following appendices are attached to this report:

- Appendix I provides a summary of mental health staffing allocations
- Appendix II provides a summary of my findings re: the Stipulated Order of Dismissal.
- Appendix III provides a summary of my findings re: the Stipulated Settlement Agreement and Order Concerning Suicide Prevention and Related Mental Health Issues (i.e., the Suicide Prevention Stipulation).
- Appendix IV summarizes my findings re: provisions of the Suicide Prevention Stipulation that were previously found to be in substantial compliance.
- Appendix V lists duplicative provisions of the Suicide Prevention Stipulation or provisions superceded by the Stipulated Order of Dismissal.
- Appendix VI lists the provisions of the Suicide Prevention Stipulation to be monitored by Ronald Shansky, M.D.
- Appendix VII references an excerpt of the Stipulated Agreement re: Sexual Abuse. Note that provision A.1.f. is now in substantial compliance.
- Appendix VIII is a record review summary
- Appendix IX is record review summary spreadsheet
- Appendix X is the document request for the next site visit.
- Attachment A is the MH overall fall 2012 audit
- Attachment B is a screenshot of the mental health intake assessment screen
- Attachment C is a summary of credentialing reviews
- Attachment D is the June 2012 staffing analysis
- Attachment E summarizes the number of mental health referrals originating from the intake process

Psychiatric Assessment

Re: ECHC and ECCF

Page 5 of 5

This final report reflects several revisions to my draft report that were made in response to comments received from the involved parties, with the substantive revisions in terms of the compliance ratings being in response to the comments from the DOJ attorneys.

The changes are reflected in the body of this report and in Appendices II & X. I am sending redlined and clean copies of Appendices II & X in order to facilitate your reading of these revisions.

My next site visit will be from June 10- 14, 2013. Appendix XI provides a summary of my requests for pre-site information.

Please do not hesitate to contact me if I can answer any further questions.*

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey L. Metzner, M.D.", with a stylized flourish at the end.

Jeffrey L Metzner, M.D.
Clinical Professor of Psychiatry
University of Colorado School of Medicine

*This report was transcribed via the use of voice software, which may explain any typographical errors still present.