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December 20, 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, I site visited the Erie County Holding Center (ECHC) from November 18-22, 2013. During the morning of November 20, 2013, 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 draft report included review of the following documents:

1. QI studies, which included the following:
  - a. Forensic Mental Health: Critical Medications,
  - b. a November 15, 2013 report entitled "Erie County Department of Mental Health Forensic Mental Health Quality Management Report" that included the following:
    - i. 2<sup>nd</sup> Qtr 2013 Qualitative Chart Review
    - ii. 3rdQtr 2013 Qualitative Chart Review
    - iii. Patients with Multiple Placements on COBS
    - iv. Crisis Bed/Constant Observation Trending 2<sup>nd</sup> and 3<sup>rd</sup> Qtr. 2013
    - v. Comprehensive Treatment Planning Report
    - vi. COBS Database Report
    - vii. FMH Referrals at ECCF Report
    - viii. Delta Force System Implementation Report
2. minutes and agendas of the suicide prevention leadership group meetings,

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3. minutes of the correctional health QA & QI minutes,
4. minutes of the mental health review committee,
5. agendas and minutes of the correctional health review committee, and
6. a November 3, 2013 draft document entitled "Constant Observation Treatment Team in Crisis Bed and Treatment Protocol, and
7. focused review of 43 healthcare records.

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

1. Michael Reardon (First Deputy Superintendent/Compliance),
2. Michael Ranney, M.S., CRC (Director of Forensic Health Services),
3. David Marciniak, R.N. (Director of Correctional Health Services),
4. Christa Cutrona, R.N. (Director of Nursing),
5. Michael Cummings, M.D.,
6. Amy Manning (Community Connections of New York),
7. Evelyn Coggins, M.D. (Chief Forensic Psychiatrist),
8. correctional officers in various housing units, and
9. 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 Eric 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).

Average facility counts during June-October 2013 were reported as follows:

|           | ECHC | ECCF | YANK | ECMC | TOTAL |
|-----------|------|------|------|------|-------|
| June      | 509  | 759  | 34   | 4    | 1306  |
| July      | 522  | 768  | 51   | 4    | 1345  |
| August    | 520  | 770  | 66   | 4    | 1360  |
| September | 530  | 768  | 58   | 1    | 1357  |
| October   | 500  | 752  | 44   | 4    | 1300  |

Other pertinent statistics included the following:

## ECHC

## ECCF/YANK

|                          | Male   | Female | Total  |  |  | Male   | Female | Total  |
|--------------------------|--------|--------|--------|--|--|--------|--------|--------|
| Average daily intake     | 39.07  | 13.70  | 52.77  |  |  | 20.54  | 4.01   | 24.55  |
| Average daily population | 455.70 | 60.51  | 516.21 |  |  | 718.37 | 95.57  | 813.94 |
| Average length of stay   | 11.68  | 4.36   | 9.76   |  |  | 35.09  | 23.81  | 33.24  |

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|              |      |      |      |  |  |      |     |      |
|--------------|------|------|------|--|--|------|-----|------|
| Mean intake  | 39   | 14   | 53   |  |  | 21   | 4   | 25   |
| Total intake | 5978 | 2097 | 8075 |  |  | 3143 | 615 | 3758 |

|             |  |      |        |          |  |  |      |        |          |
|-------------|--|------|--------|----------|--|--|------|--------|----------|
|             |  | Male | Female | Combined |  |  | Male | Female | Combined |
| Median stay |  | 6    | 2      | 7        |  |  | 50   | 12     | 40       |

The number of inmates receiving mental health treatment since June 2013 was as follows:

### June 2013-October 2013

#### ECCF

June 197  
 July 230  
 August 234  
 Sept. 232  
 Oct. 208

#### ECHC

June 215  
 July 204  
 August 243  
 Sept. 199  
 Oct. 225

### Staffing

Appendix I provides relevant staffing information for ECHC and ECCF.

During the site visit, I toured the newly renovated space for the reception intake area, detoxification housing and the medical records department. It was well designed and was now operational.

### The Stipulated Agreements - Executive Summary

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

At the present time, all provisions of this Agreement that are being monitored by me within this Agreement continue to be in substantial compliance. Appendix III provides a summary of the 3 remaining provisions that are in substantial compliance but not yet for 18 consecutive months. Appendix IV lists the 22 Suicide Prevention Stipulation provisions that have been in substantial compliance for at least 18 months.

By previous agreement of the parties and with approval from Ronald Shansky, M.D., all provisions of this Agreement directly referencing detox services continue to be monitored by Ronald Shansky, M.D. because it is 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.

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### *The Stipulated Order of Dismissal*

The most significant progress re: the provisions of the Stipulated Order of Dismissal since the June 2013 site visit have included the following:

1. successful implementation and continued evolution of the Residential Treatment Unit,
2. completion of the renovated space for the reception intake area, detoxification housing and the medical records department,
3. beginning roll out of the Delta Force System, and
4. further steps towards the purchase of an electronic medical record.

The credentialing process for the mental health clinicians continues to be a very successful endeavor based on interviews with the mental health staff.

All of the provisions of the Stipulated Order of Dismissal that were assessed to be in substantial compliance during the previous site visit have remained in substantial compliance. An additional 8 provisions have been found to be in substantial compliance during this site assessment. Appendix VIII lists these provisions (in bold). Ten (10) provisions are now newly in substantial compliance for at least 18 months (see Appendix IX), which results in a total of 17 such provisions. All other provisions of this Stipulated Order are in partial compliance.

The leadership exhibited by Mr. Ranney, Dr. Antonius, Dr. Cummings and Dr. Coggins and the evolving QI process remains impressive. The relationship between DMH and the University of Buffalo's Department of Psychiatry continues to be crucial in improving the mental health services. As in the past, the leadership and collaborative actions demonstrated by First Deputy Superintendent/Compliance Michael Reardon have also been essential in this process. The leadership provided by David Marciniak, R.N. (Director of Correctional Health Services), Christa Cutrona, R.N. (DON) and Edwin Heidelberger, M.D. (Chief Medical Officer) has also been impressive.

### **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 lists the provisions of the Stipulated Settlement Agreement and Order Concerning Suicide Prevention and Related Mental Health Issues (i.e., the Suicide Prevention Stipulation) that are not yet in substantial compliance for at least 18 consecutive months.
- Appendix IV lists Suicide Prevention Stipulation provisions in substantial compliance for at least 18 months

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- 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.
- Appendix VIII lists the Stipulated Order provisions that have been found to be in substantial compliance but for less than 18 consecutive months.
- Appendix IX lists the Stipulated Order provisions that have been found to be in substantial compliance for at least 18 months.
- Appendix X is the document request for the next site visit.
- Attachment A is a November 15, 2013 report entitled "Erie County Department of Mental Health Forensic Mental Health Quality Management Report.
- Attachment B is a summary relevant to the ECMC bed expansion meeting.

Please note that the formatting in some of these appendices may not correspond to the original Agreements due to cutting and pasting from the original agreements. However, the language (i.e., content of the provisions) is unchanged.

I have reviewed the comments submitted to me by both parties and have made appropriate revisions to my draft report. I am submitting redlined and clean copy versions of Appendix II, which contain these revisions. All other appendices are unchanged from those previously sent to you.

My next site visit will be from May 12-16, 2013. Appendix X 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". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Metzner" clearly distinguishable.

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.