



U.S. Department of Justice

Civil Rights Division

JS:JA:CNC:CR:pjc
DJ 168-30-22

*Special Litigation Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530*

October 14, 2014

Joe Taylor
Grant County Attorney
101 North Main Street
Williamstown, KY 41097

Re: Grant County Detention Center inspection

Dear Mr. Taylor:

We write to provide you and your clients with our assessment regarding current conditions at the Grant County Detention Center. This assessment is in regards to the August 3, 2009 settlement agreement between the United States Department of Justice and Grant County. To conduct our evaluation, we toured the Jail from June 12-13, 2014, reviewed documents, and interviewed staff and prisoners. Please extend again our appreciation to staff that assisted with our tour.

This is the second time we have written to the current Jail administration regarding Jail compliance with the Agreement. During our last compliance review, we identified some improvements; but also noted continued constitutional violations. In particular, we warned County officials that the Jail was not providing prisoners with adequate access to qualified clinical staff and mental health services. We now write to report that the County has made little progress in addressing these deficiencies since our last inspection. As a result, the County continues to place prisoners at serious risk of harm from constitutionally inadequate medical and mental health care. We outline below our concerns and offer recommendations that, if adopted, will facilitate county compliance efforts.

I. BACKGROUND

The Jail housed over 350 prisoners at the time of our inspection, which is approximately the same population as during our last inspection and twice the population when we first cited the facility for unconstitutional conditions. The County continues to utilize a private medical contractor, Advanced Correctional Healthcare.

II. CONTINUING VIOLATIONS OF PRISONER RIGHTS

The Agreement between the County and the Department requires the provision of medical and mental health services to address the serious needs of Jail prisoners. To that end, the Agreement mandates improvements to staffing, health screenings, treatment plans,

record-keeping, medication practices, sick call, and chronic care. Below, we detail the extent of the County's compliance with each of the provisions of the Agreement.

1. The County will continue to ensure the adequate and timely identification of, and provide adequate and timely services to address, the serious medical and mental health needs of all inmates regardless of ability to pay.

Rating: Non-Compliant.

During our last compliance review, we recommended improvements to medical and mental health care. Specifically, we recommended that the County increase registered nurse, physician, and mental health coverage. After our last tour, the County made some process changes, improved chronic care protocols, and substituted personnel. It did not, however, increase staffing. Physician coverage is nearly the same as it was when we opened this case in 2005, while the County has actually *reduced* the number of hours of mental health coverage since our last tour. Not surprisingly, the medical provider has therefore made little headway in improving care. Accordingly, we have downgraded our assessment of County compliance with the Agreement. The County's complete disregard of our recommendations reflects deliberate indifference to the serious medical and mental health needs of the prisoners. As detailed further below in this letter, the failure to address systemic problems with medical and mental health care seriously jeopardizes the health and safety of Jail prisoners.

In our last compliance report, we identified similar problems, and warned that inadequate assessment and care contributed to deaths and injuries at the Jail. During the past year, the Jail reported no deaths; however, staff practices remain hazardous, placing prisoners at continued risk of serious harm. Some of the examples of poor medical assessment and response include:

Inmate SC – SC had a history of heroin use. When she entered the Jail in March 2014, she was pregnant. On March 19, 2014 she complained of nausea and vomiting, and in response, a nurse saw her for the complaints. The nurse did not, however, refer the case to the physician. Staff also placed SC on detoxification watch without any physician order. Staff then released the prisoner from detoxification watch, again without physician follow-up. Detoxification of a pregnant woman involves complex medical decisions beyond the training of a nurse. It must be handled with the utmost care to avoid danger to the patient and fetus. Instead, the Jail basically treated this complex case without any physician support for the nursing staff.

Inmate GJ – GJ had a history of heart disease and an abnormal heart rhythm. He entered the Jail in May 2014. He complained of chest pain, and his blood pressure was elevated. Given the complaint of chest pain, which can be life threatening, medical staff should have handled the case carefully, with appropriate orders and documentation of care. Instead, the nurse did not document conducting an examination. The nurse did call the physician, who ordered medication for GJ's blood pressure (apparently by phone). Staff then placed GJ on a medical watch, but records do not clearly document why. Indeed, the records suggest the watch may actually have been because the prisoner required detoxification, and not out of any recognition that the prisoner had a serious heart

condition. The staff did not actually follow the detoxification nursing protocol, as nursing did not check on the prisoner for several hours. At some point, nursing may have checked the prisoner's blood pressure, but the follow-up documentation was poor. The physician never checked on the prisoner, even though at one point, someone in medical believed the prisoner's condition needed medical watch.

Inmate SH - In January 2014, a nurse saw SH for chest pain. The nurse did not, however, document the results of any examination. Staff called the physician and placed the prisoner on a medical watch. The nurse then saw the inmate at 13:01 hours, and SH again complained of chest pain. The nurse again did not document any evaluation or examination. The nurse saw SH again at 16:00, and SH once again complained of chest pain. Once again, the nurse did not document a nursing evaluation. The physician apparently never saw this prisoner. Notably, the Jail's own policies require that a nurse contact the physician each time a prisoner reports chest pain. So at minimum, the nurse's failure to do so would indicate a violation of Jail policy. More importantly, however, this example again illustrates the Jail's over-reliance on LPNs to handle serious conditions when they are unqualified to independently do so. It also demonstrates atrocious record-keeping, poor response to potential medical emergencies, and inadequate continuity of care. Someone who has been experiencing chest pain for hours needs more than occasional, poorly documented "checks" by a nurse.

A. Nursing Care.

Continued staffing deficiencies affect every aspect of care and are directly related to many of the examples described in this letter. But the most basic problem begins with inadequate nursing coverage. Generally, nursing staff provide much of the day-to-day care required by prisoners in a jail. They conduct initial medical screenings, hand out medications, help monitor prisoners with chronic conditions, and respond to requests for treatment. While licensed practical nurses ("LPNs") can provide some of these services, they cannot independently diagnose, assess, or treat patients. Unfortunately, the Jail employs only LPNs. The County does not have any registered nurse ("RN") to actively oversee the LPNs or to handle more complex nursing duties. Using LPNs as gatekeepers effectively denies necessary care, because they are not qualified for that role.

B. Physician Care.

One of the County's few notable responses to our staffing concerns has been to require the medical director to more regularly approve many of the nursing (LPN) decisions. This process for physician "oversight" is a badly implemented, paper procedure that does not reflect what is actually occurring. There is no real physician supervision or oversight of patient care.

First, even on paper, physician oversight is poorly documented. While staff suggest that assessments and treatment orders are carefully reviewed by the doctor, the Jail's own policies and records fail to prove that this is actually the case. Jail policies are vague, or non-existent, in terms of what specific tasks or obligations the physician must play in providing quality oversight or staff training. Protocols used by the nurses are vague, and require them to exercise judgments

that are normally beyond the scope of an LPN's discretion. Individual prisoner charts contain numerous omissions, such as the lack of documented physician orders. Where orders exist, they are often sparse and provide little guidance to staff on the management or treatment of a patient. In some cases, we found staff taking it upon themselves to provide treatment that was actually inconsistent with physician orders.

Second, in practice, there is so little on-site physician coverage that he cannot possibly provide adequate care or treatment.¹ The Jail operates 24 hours a day, 7 days a week. During this time period, prisoners may develop serious illness, require restraints or medical observation, or seek transport for emergency or outside care. While lower level staff can help initiate or assist with some of these situations, many of the medical decisions must eventually require timely physician exams, treatment, or clinical follow-up. Yet, the County's physician is only on-site once per week, for about 3 hours. Outside of this narrow window, a prisoner will never see the doctor in a timely manner. As a comparison, national guidelines require that a facility of this size have approximately 12 hours of physician coverage. So the physician coverage at the Jail is only a fourth of what is expected. The 12-hour guideline may actually underestimate what is required at this Jail, because it assumes the existence of a qualified team of nurses and other medical staff. For instance, a medical team that includes some advanced practice nurses or registered nurses can sometimes reduce the number of actual physician hours. But with the County's over-reliance on LPNs and lower level staff, the Jail does not have such staffing flexibility.

C. Mental Health Care.

Since our last tour, the County has replaced a 20 hour per week mental health professional with one who comes on site 16 hours per week. We have previously cited the County for inadequate mental health coverage when it had 20 hours per week of coverage. So this decrease is even more concerning, as it demonstrates a willful disregard of the County's constitutional obligations.

Moreover, as we have also warned in the past, the Jail's "qualified mental health professional" is only licensed to conduct certain tasks, such as providing some counseling and psychological assessments. Other types of mental health care require a licensed psychiatric professional who can make appropriate judgments about medications and provide more specialized care. Unfortunately, the Jail still has no regular psychiatric staffing coverage; nor does it have a mechanism in place to ensure effective access to outside psychiatric services.

Jail staff suggested that the contractor has a psychiatrist on-staff, and that there are some relationships with other local mental health professionals. We note, however, that they could not

¹ Determining who runs the medical clinic proved challenging. We inquired whether there is a health service administrator ("HSA") at the Jail, and received inconsistent answers. We received reports that both Jailer Peeples and one of the LPNs function as the health services administrator. However, the Jailer is not a medical professional and cannot function in a supervisory, clinical role. An LPN also cannot serve in this role, because no LPN is licensed or qualified to practice without appropriate supervision by an RN or physician, let alone supervise other LPNs in such a manner. Although some higher level practitioners work for the contractor at their headquarters, we found little or no documentation to indicate that these administrators play any clinical role at all at the Jail.

document that any of these relationships actually exist or provide meaningful levels of psychiatric care. For instance, the Jail's medical contracts do not provide for adequate, specific hours of psychiatric coverage; nor do they require the performance of specific duties by a psychiatrist.

The Jail does use its physician to prescribe psychotropic medications, but this is not adequate. As already noted, the physician is rarely on-site and cannot meet all the needs of sick prisoners. Moreover, some elements of psychiatric service require specialized training, which the Jail's physician does not have. Indeed, our mental health consultant found problems with his medication orders and patient management across numerous charts.

As a result of grossly deficient mental health staffing, nurses treat prisoners with mental illness in ways that indicate a complete lack of qualified clinical judgment. For examples, prisoners are left on powerful, potentially dangerous medications without any psychiatric baseline evaluation or monitoring. Low-level staff remove prisoners from suicide watch without any psychiatric (or even physician) approval. Staff place prisoners in mental health isolation without any psychiatric input. Staff declares prisoners to be suicide risks, place them in restraints, and then do not schedule any psychiatric follow-up.

2. The County will continue to evaluate the adequacy of all medical and mental health policies and procedures on a regular basis and, where necessary, make revisions to address any gaps identified.

Rating: Non-compliant.

The County has not been conducting periodic evaluations of medical and mental health policies. Despite our repeated request, the County still does not conduct even basic mortality reviews. Even when a prisoner dies, the County does nothing to evaluate whether there may be problems with Jail policies or procedures.

Since our last tour, we have attempted to contact the County on numerous occasions to discuss technical assistance and propose a process for reviewing Jail policies and other remedial efforts. Unfortunately, the County has not responded to any of our overtures. The lack of any reasonable County response to numerous e-mails, calls, and other communications from our office is further evidence of deliberate indifference. Whether the County chooses to make improvements is one issue. But to also ignore offers of dialogue and assistance is even more compelling evidence of the County's utter disregard for its constitutional obligations.

3. The County will continue to provide receiving screens by health services staff for new inmates, and inmates transferring from other correctional institutions, within twenty four (24) hours of each inmate's arrival at the facility. The County will ensure that health services staff performing receiving screens are trained to complete the assessments. For this receiving screen, health services staff record and seek the inmates' cooperation to obtain: (1) medical, surgical, and mental health history, including current or recent medications; (2) current injuries, illnesses, evidence of trauma, and vital signs, including recent alcohol and substance use; (3) history of substance abuse and treatment; (4)

pregnancy; (5) history and symptoms of communicable disease; (6) suicide risk history; and (7) history of mental health treatment, including medication and hospitalization. Health services staff also will attempt to elicit the amount, frequency and time of the last dosage of medication from every inmate reporting that he or she is currently or recently on medication, including psychotropic medication. The information obtained through the receiving screen will be made a part of an inmate's medical record.

Rating: Compliant.

See 1 and 2 above.

4. The County will continue to conduct [14]-day health assessments and examinations and will make appropriate referrals for treatment or evaluation. As part of the fourteen-day health assessment, the County will screen inmates for infectious diseases, including tuberculosis and sexually transmitted diseases. The health assessment will include a review of the receiving screen, a complete medical and mental health history, a physical examination, and a mental health assessment. Appropriate plans will continue to be developed and implemented with this information.

Rating: Non-compliant.

See 1 and 2 above.

The County has made some small improvements in the assessment process. Overall, however, inadequate physician and nursing coverage means that patient assessments and treatment plans remain grossly inadequate.

The Jail 14-day health assessment process consists of LPNs filling out questionnaires. We recognize that the LPNs are now consistently filling out these questionnaires. However, the process is still fundamentally flawed, and does not constitute a true, clinical assessment for purposes of the Agreement. Indeed, the assessment does not even include some of the express requirements of the Agreement, such as a physical exam, tuberculosis skin testing, or mental status exam.

More importantly, LPNs are not trained or licensed to diagnose conditions or determine whether someone requires care. Yet, Jail policies make them the gatekeepers to care. The 14-day health assessments need to be conducted by someone qualified to exercise this type of clinical judgment, such as a physician, physician assistant, or nurse practitioner. While an RN can assist by conducting the physical exam piece of the assessment, the RN would still require physician supervision.

At the Jail, even when the LPNs recognize that a prisoner may have a serious medical condition, they receive little treatment guidance. In theory, the Jail's medical director directs the LPNs. But in reality, the doctor does not participate in treatment planning with other staff. He does not consistently write treatment plans, which could at least give the LPNs more formal guidance on appropriate care. He functions almost as an outside consultant, rather than the

medical director. And even then, his hours are very low given the scope of his reported responsibilities. Certainly, he is not participating as an integral part of the 14-day health assessment and treatment planning process.

The problems with the 14-day health assessment and treatment process are bad enough. However, the Jail has made the situation worse with unsound medical policies. Specifically, the Jail does not have a contemporary communicable disease screening program. For instance, long-term prisoners may need tuberculosis testing, but that is not provided at the Jail as part of any regular assessment process. Nor does the Jail have appropriate keep-on-person medication policies that could reduce prisoner demands on the already under-staffed medical system. For example, the Jail does not allow prisoners with heart disease or asthma to keep emergency medications on their person. This policy is both risky to the prisoner, who may not get medication when needed, and the nurses, who must play an unnecessary role in determining whether to give life-saving medication when they should not be making life-and-death treatment decisions in the first place.

5. The County will continue to ensure that inmates are seen by health services staff in a timely manner after submission of a sick call slip.

Rating: Partial compliance.

See 1, 2, and 5 above.

Additionally, jail security staff collects sick call slips, which is a continued violation of medical privacy standards. Sick call slips should be collected by medical staff.

6. The County will continue to ensure that all inmates with serious or potentially serious acute medical conditions receive necessary examination, diagnosis, monitoring, and treatment, including referrals to appropriate outside medical professionals when clinically indicated.

Rating: Non-compliant.

See 1, 2, 5, and 6 above.

Even prisoners with the most serious conditions, such as those identified as requiring medical watch, do not receive appropriate care, assessment, and monitoring. At best, those on watch may receive more frequent attention by LPNs or security staff, but this is often inadequate for such prisoners. For instance, someone with chest pain may need immediate transport to the hospital since no one is qualified to make an assessment at the Jail. Otherwise, just putting the prisoner on watch is clinically meaningless care. While having a physician on-call can offset some concerns, the Jail over relies on such ad hoc measures. In the absence of a fully staffed medical department and appropriate policies, the current system creates unnecessary risk.

7. The County will continue to implement appropriate clinical guidelines for the management of chronic diseases such as HIV, hypertension, diabetes, asthma, elevated lipids, and mental illnesses.

Rating: Partial compliance.

See 1, 2, 5, and 6 above.

8. The County will continue to ensure that inmates with chronic illnesses, including mental illnesses, receive necessary examination, diagnosis, monitoring, and treatment. The County will provide and document routine tests and follow-up appointments.

Rating: Partial compliance.

See 1, 2, 5, 6, and 8 above.

The Jail does have some guidelines for prisoners with diabetes, hypertension, and other chronic diseases. Prisoners with these conditions do receive better care than before implementation of such guidelines. Unfortunately, however, chronic care remains inadequate overall.

First, the guidelines themselves have numerous omissions and inadequacies. For instance, the guidelines for hypertension do not include tests to assess cardiac risk. Timelines for certain blood tests are unduly long. The tuberculosis guidelines lack provisions for testing of longer-term prisoners. The guidelines for diabetes do not include assessments for cardiac risk or liver function. There are no guidelines at all for some chronic diseases, such as HIV.

Second, staffing issues impact the medical staff's ability to assess and treat prisoners with chronic conditions. For instance, prisoners with chronic conditions may be placed on medications that can have serious side effects and require close monitoring. But we found numerous examples of patients on medications without meaningful physician oversight or monitoring. Most glaringly, the physician appears to be altering medications in some cases without seeing his patients or having adequate information to make such changes.

The Jail's detoxification guidelines provide a good illustration of the problems with chronic care in general. The guidelines themselves are poorly written. The detoxification policies are internally inconsistent, with provisions regarding assessments and monitoring that are in conflict. For example, the benzodiazepine protocol calls for monitoring of vital signs as ordered by a physician, but another provision calls for a more rote approach (hourly monitoring for the first four hours). The policies make assumptions about diagnosis and response, even though there is usually no one at the Jail who is qualified to make those diagnoses or order response. The policies do not provide for prompt physician notification and assessment.

As a result, the LPNs are attempting to follow vaguely worded protocols for different types of withdrawal, when they are not qualified to make some of the judgments required by the protocols. For instance, nursing staff routinely place prisoners on "detox" monitoring without recognizing that the facility's own policies actually require more individualized assessment and

treatment depending on the prisoner's symptoms. To illustrate, a prisoner may be booked with odd behavior, which could be the result of a mental illness, alcohol withdrawal, or some type of drug withdrawal. The proper procedure to manage the prisoner's symptoms may vary greatly. In some cases, the prisoner may simply need observation. In others, they may need treatment to avoid fatal substance abuse withdrawal, which in turn may require immediate physician attention and higher level nursing care. Yet in other cases, the Jail may not be able to handle the patient at all, and should immediately transfer the prisoner to a hospital. But at the Jail, the response to different cases is all too often just an instruction to put the prisoner on "watch," (i.e. monitor the prisoner more frequently), without appropriate clinical attention.

Examples of poor chronic care that placed prisoners at risk from serious medication side-effects or harm from their illness include:

Inmate TJ – TJ was on seizure medications that can cause liver damage, but staff were not conducting timely blood tests required to prevent this type of side effect. He had one chronic care visit, but the physician did not enter any notes into his record. Instead, the physician progress note was blank, and the physician provided no instructions for follow-up care.

Inmate GJ – Staff did not conduct required blood tests to ensure the correct (effective) dosage of medication was being used for her hyperthyroidism.

Inmate KM, ST - Inmates KM and ST both received medication for diabetes without staff ever conducting a kidney or liver function test to determine if the drug could be safely prescribed. The drug in question is contraindicated in people with kidney and liver disease, because its use can cause a potentially fatal condition.

Inmate PD - PD had a history of having clots in his veins, and he was on a blood thinner, Coumadin, to prevent them. Coumadin can cause internal bleeding if the dosing is too high. If the dose of Coumadin is too low, the patient can develop clots. Both of these scenarios can be lethal. So timely blood testing and physician review is required to prevent harm. In May, a blood test showed that the patient's Coumadin level was too low, but the physician took no action.

9. The County will continue to provide appropriate special medical diets when medically required.

Rating: Compliance.

The County provides an adequate diet for prisoners, including those with special medical needs.

10. The County has contracted with a mental health care provider to provide all services for inmates' mental health treatment. The County will continue to ensure that the mental health care provider will continue to promptly perform a comprehensive mental health evaluation of any inmate whose history or responses to initial screening questions

indicate a need for such an evaluation. The comprehensive mental health evaluation shall include, if indicated, a recorded diagnosis section conforming to generally accepted professional standards.

Rating: Partial compliance.

See 1, 2, 5, 6, and 8 above.

The Jail has made very few improvements in mental health care since our last inspection. As we have previously noted, the biggest problem is that there are simply not enough mental health staff at the facility. However, problems with facility isolation, restraint, and observation policies also cause continued concerns.

The Jail retained an individual with a master's in psychology, to serve as the facility's "qualified mental health professional." The individual is qualified to conduct some psychological assessments, provide counseling, and offer other mental health services within the scope of his license.² A number of prisoners reported positive interactions with him.³ He also does some rounds in segregation, which is something we recommend. However, he is only on-site 16 hours/week (Monday, Tuesday, and Wednesday mornings). This is a *decrease* of four hours from similar coverage provided on our last inspection. As a result, the qualified mental health professional does not actually provide much documented testing, counseling, or individualized treatment planning that he may be otherwise qualified to provide. Moreover, no meaningful clinical (physician, psychiatrist, or psychologist) supervision exists for his work at the Jail. What we mean is that the individual does not have a higher level practitioner readily available for consultation, supervision, and advice. In many situations, the services required are beyond the scope of the qualified mental health professional's training and expertise. For instance, prisoners with certain acute mental health conditions may require powerful medications, which must be prescribed by a physician and carefully monitored. Suicidal prisoners may require sedation or more complex clinical supervision than can be provided at the

² Although we refer to "psychological assessments" in this letter, we should note that we use the term in a lay sense. Technically, a mental health professional with a master's degree in psychology is not considered a psychologist in many, if not most, states. A PhD psychologist can independently conduct certain types of testing, assessment, and treatment that a master's level practitioner should not. The Jail's qualified mental health professional has been grandfathered under state law to serve in some ways as a psychologist. However, he cannot prescribe medications, nor does he oversee other aspects of mental health care that are of gravest concern.

³ Some of our interviewees mentioned talking to "the doctor," but based on the context, we believe that in most, if not all, of these cases, they were referring to the master's level psychologist and not an actual psychiatrist. The records were so lacking in documentation by the jail's physician and psychiatrist, we have found it difficult to confirm that they provide any care at all. Certainly, there was a notable lack of physician orders that we would normally expect to find when a prisoner is placed in medical segregation/observation or restraints. While it is possible other staff contact the qualified mental health professional about prisoners with mental health conditions before they act, the records lack evidence that this actually occurs. Like the physician, the qualified mental health professional rarely enters progress notes or other important information into the medical records. For instance, one would expect that if a prisoner was removed from suicide watch by medical or mental health staff, there would be at least some documentation of the prisoner's current mental state to justify lowering their watch status. That was not happening. Similarly, the qualified mental health professional's hours were so limited, it is very unlikely he is on-site when prisoners are being placed on various levels of "watch" or restraints.

Jail. In some situations, a physician might decide to transfer a patient with severe mental health issues to a mental hospital. The Jail's mental health professional cannot handle these types of treatment matters entirely on his own. He needs to have regular and documented consultation and direction from a higher level practitioner.

Technically, the Jail physician could help fill the clinical gap, but that is not happening. The Jail physician does write some medication orders for prisoners with mental health conditions. However, what mental health care that he does provide is very sporadic and limited. He does not participate in any type of comprehensive or multi-disciplinary treatment planning. His progress notes, diagnoses, or treatment orders are poorly documented. Medication orders do not necessarily match symptoms or the acuity of a patient's condition. He writes orders without conducting comprehensive mental health status exams, and changes treatment without ever conducting a face-to-face exam of the patient. Some of his medication dosages are not therapeutically effective. More generally, coordination between the physician, nurses and mental health staff is poorly documented. The physician does not regularly refer even complex cases for outside specialty review by a psychiatrist. Most notably, the Jail physician has no meaningful role in much of the suicide assessment and monitoring process.⁴

As a result of poor mental health staffing, major clinical assessments and treatment decisions are effectively dictated by unqualified staff such as detention officers or low level clinicians, such as the LPNs or those employed by North Key Mental Health.⁵ Such staff routinely move prisoners onto or off of suicide/mental health watch, restrain prisoners, adjust medications, or isolate prisoners with mental illness. These types of decisions directly affect the life and safety of some of the highest risk prisoners. To leave such decisions to low level staff with very little additional oversight is inexplicable.

In the absence of effective mental health treatment, the Jail staff utilize arbitrary and punitive procedures when dealing with prisoners with serious mental health conditions. The Jail's unsound philosophy towards prisoners with mental illness is exemplified by how it handles mental health isolation, restraints, and welfare checks.

If staff decides a prisoner may be a suicide or mental health risk, they routinely place such prisoners in 23 hour per day isolation or restraints. Prisoners on mental health observation are treated like individuals who are being punished for breaking the rules, rather than as patients who require a healthy, therapeutic environment. Medical segregation and restraints should be used carefully, and not imposed for long periods, with the only oversight being provided by LPNs, North Key personnel, or security staff. The isolation cells themselves are unsanitary, difficult to observe, and dim. Once placed in restraints, jail policy and practice arbitrarily require

⁴ The medical provider reportedly has a psychiatrist on-staff, but there is no documentation that he has ever been consulted about a patient at the Jail. Even if the medical staff informally contact him for advice, this would not be equivalent to actually having a psychiatrist oversee those aspects of mental health care that require higher level supervision and management.

⁵ In a small rural facility, reliance on a telephone crisis line and consults from a group like North Key may be an improvement over the alternative – no mental health care at all. However, we hold Grant County to minimum standards that are more appropriate for a large detention facility that is within a short drive of a major city.

that a prisoner may only be released to an isolation cell, regardless of whether they may still be a risk to themselves.

Such harsh treatment of prisoners with mental illness is often counter-productive. For instance, mandatory isolation or restraints can discourage seriously ill prisoners from accurately reporting their state of mental health, generate active resistance, or even exacerbate symptoms. It was not difficult to find prisoners who confirmed our concerns. For instance, during our inspection, we interviewed a number of prisoners in isolation or "watch." We found: 1) a prisoner who indicated he would rather obstinately remain in his restraint chair rather than agree to transfer to an unsanitary isolation cell, the only alternative allowed to him under Jail policy; 2) a prisoner who had been on "high watch" for nearly two days due to potential suicide risk, but had never been seen by the physician; 3) a suicidal prisoner with a hearing impairment and other medical issues, whose hearing aid was confiscated when he was placed in isolation. These and nearly all of the other "watch" prisoners we interviewed also reported problems with getting medications.

The mental health watches and other welfare checks are themselves unsafely implemented. The Jail continues to rely on prisoner trustees to oversee the health and well-being of prisoners on suicide or mental health observation. It is completely inappropriate to use prisoners to provide a form of medical supervision for other prisoners. To make matters worse, the trustees are not actually checking on the prisoners as frequently as required by the Jail's own policies. For example, trustees are supposed to check on "high watch" prisoners every 15 minutes. Prisoners complained that staff and trustees improperly fill out watch forms in advance or after a shift. Such practices would make the watch forms unreliable. As corroboration of the prisoner reports, our consultant found that three prisoners on "high watch" at the time of our inspection were only being checked every 25-40 plus minutes.

11. The County will continue to provide appropriate mental health treatment to any inmate whose evaluation indicates a serious mental health condition that requires such treatment. Where possible, and where consistent with security concerns, the County will provide an appropriate confidential environment for psychological testing and counseling.

Rating: Non-compliance.

See 1, 2, 5, 6, 8, and 11 above.

12. The County will continue to provide sufficient on-site staffing by mental health care providers to ensure adequate mental health care. The County will ensure that the mental health prescribing practitioner is adequately trained and supervised by a psychiatrist.

Rating: Non-compliance.

See 1, 2, 5, 6, 8, and 11 above.

13. The County will continue to ensure that appropriate psychiatric evaluations are conducted any time psychotropic medications are prescribed or changed.

Rating: Non-compliance.

See 1, 2, 5, 6, 8, and 11 above.

14. The County will continue to ensure that an appropriate individual mental health treatment plan is prepared in a timely manner by a mental health care provider for each inmate requiring treatment for mental illness.

Rating: Non-compliance.

See 1, 2, 5, 6, 8, and 11 above.

15. The County will continue to maintain on site complete, confidential, and appropriately organized medical and mental health records for each inmate. The County will continue to ensure that such records include sufficient information (including symptoms, the results of physical evaluations, and medical staff progress notes) to ensure that health services staff have all relevant information available when treating inmates.

Rating: Partial Compliance.

Jail records remain poor and disorganized. Progress notes, multi-disciplinary treatment plans, physician assessments, laboratory test results, and other critical materials, are missing even for prisoners with complex and serious conditions. Staff had difficulty navigating the electronic medical record when interviewed by our consultants. More generally, the County lacks quality assurance procedures and other administrative safeguards to ensure that staff actually document treatment decisions and care.

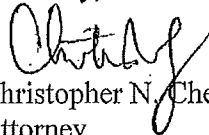
* * *

As we have previously agreed, we affirm that no person or entity is intended to be a third-party beneficiary of the provisions of the Agreement for purposes of any civil, criminal, or administrative action. Accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under the Agreement. The Agreement is not intended to impair or expand the right of any person or organization to seek relief against Grant County or its officials, employees, or agents for their conduct; accordingly, the Agreement does not alter legal standards governing any such claims, including those under Kentucky law.

In our last compliance letter, we acknowledged that a new Jail administration and contractor were in place. We understood that they might not have had as much time to fully evaluate their obligations under the Agreement and take remedial action. However, enough time has now passed that the County's lack of progress is much more troubling. I will therefore be calling you shortly to discuss what, if any, steps the County is willing to take to comply with the Agreement.

If you wish to discuss this matter in advance of my call, or have any questions or concerns, please do not hesitate however to contact me directly at (202) 514-8892.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Cheng", written over the printed name.

Christopher N. Cheng
Attorney

Special Litigation Section

cc:

Darrell K. Link
County Judge Executive

Terry Peebles
Jailer