

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JIMMY DOE, *et al.*,)

)

Plaintiffs,

) No. 99 C 3945

)

v.)

)

COOK COUNTY, *et al.*,

) Chief Judge James F. Holderman

)

Defendants.)

**FIFTH REPORT OF THE TRANSITIONAL ADMINISTRATOR OF
THE COOK COUNTY JUVENILE TEMPORARY DETENTION CENTER**

Earl Dunlap, Transitional Administrator (TA) of the Cook County Juvenile Temporary Detention Center (JTDC), hereby submits this status report.

Introduction

On August 14, 2007, the Court entered an Agreed Order Appointing a Transitional Administrator. The purpose of this Order is to appoint a Transitional Administrator (TA) with the authority and responsibility to bring the Cook County Juvenile Temporary Detention Center (JTDC) into substantial compliance with the Memorandum of Agreement (MOA) and the Modified Implementation Plan (MIP), and to prepare the JTDC for the transition of administrative authority over its operations to the Office of the Chief Judge of the Circuit Court of Cook County. The Order also requires the TA to report to the Court on a regular basis.

Whereas the TA's prior reports have provided an overview of the TA's reform efforts, *see* Dckt. Nos. 458, 530, 646, 680, this report focuses specifically on transition of the JTDC to

the Office of the Chief Judge of the Circuit Court of Cook County (OCJ), a topic the TA believes to be of most interest to the Court at this point.¹

I. Office of the Transitional Administrator

The OTA has undertaken a number of projects to facilitate transition to OCJ, described in detail below.

A. Compliance Assessment Reports

The OTA has conducted a systemic assessment of the facility's compliance with the non-health care provision MOA and MIP.² A memo summarizing the findings of the compliance assessment is attached here as Exhibit A.

As the summary shows, the JTDC is in substantial or partial compliance with approximately 71% of all non-health care provisions of the MOA and MIP. The Executive Team meets weekly to review progress toward compliance. This document will be updated on regular basis as the JTDC moves toward substantial compliance in more areas.

As the compliance assessment reveals, progress toward compliance has been significant, but work remains, particularly in areas relating to quality assurance. In the absence of an adequate Management Information System (discussed in further detail below), provisions impacting quality assurance cannot be implemented. The TA is happy to comment in further detail on this assessment at the Court's request.

¹ The TA will provide a report that follows the format of his prior reports if the Court would find it useful. The TA also intends to appear in Court for the April 11, 2013 status and can answer any questions at that time.

² The OTA is working with outside experts to assess compliance with the medical and mental health aspects of the MOA and MIP. These assessments should be complete by May 1, 2013. The TA is optimistic about the outcome of these assessments as the JTDC was recently accredited by the National Commission on Correctional Health Care, an agency whose standards are on par with those set forth in the MOA and MIP.

As the TA previously reported to the Court, the TA anticipates seeking a waiver of certain provisions of the MIP. For example, Paragraph 24 Section 2.4, of the MIP requires the development of a special needs unit that can house suicidal residents. The TA does not anticipate compliance with this provision to the letter because residents who are deemed a suicide risk are no longer held at the JTDC. Instead, the TA has adopted a policy of referring these residents to external psychiatric or medical facilities. This approach achieves the same goal as Paragraph 24, Section 2.4 of the MIP because it ensures these youth an appropriate setting that can meet their special needs. In addition, the TA's approach conserves JTDC operational resources and maximizes the County's ability to access federal funding.

Similarly, Paragraph 33, Sections 2.1 and 2.2 of the MIP require mental health and substance abuse screening results to be documented in DSI, the JTDC's current information management system. The TA will seek a waiver of this provision because DSI does not support this function and the DSI system will soon be phased out. Instead, this information will be kept in the electronic medical records system that is currently being developed. A tentative list of the MIP provisions that the TA seeks to have waived and/or modified is attached as Exhibit A (compliance report), page 5. This list has been shared with the *Doe* parties.

B. Transition Report

The OTA is also preparing a Transition Report, which will detail the operational development of the JTDC and offer a recommended transition plan to OCJ. Although substantial progress has been made on this document, it is still a work in progress. The OTA expects it to be complete by June 1, 2013.

C. Safety and Information Report

The OTA is also preparing a Safety and Information Report, which will address most serious issues that may not be fully resolved prior to transition. Although the Report itself is a work in progress, the issues it will address are of crucial importance to the transition and warrant discussion here.

1. Management Information Systems (MIS)

As the TA has previously reported, the JTDC's management information system is a crucial issue to be addressed. The JTDC relies on its current system (DSI) to keep track of vital resident information. The system suffers two major flaws. First and foremost, the system's vendor will no longer support it (meaning that DSI will cease to be available to the JTDC). Second, the DSI cannot support requirements of the MOA and MIP, such as those that call for computerized incident reports and quality assurance indicators.

The OTA has retained an expert in the field, Robert Dugan, who is working closely with OTA and the Cook County Bureau of Technology to develop a MIS system to replace DSI that will comply with the MOA and MIP. Mr. Dugan previously led National Performance Based Standards Project for Juvenile Confinement Facilities for the U.S. Department of Justice/Office of Juvenile Justice and Delinquency Prevention. The TA is therefore confident that Mr. Dugan will develop an appropriate system. The County appears to be taking this issue very seriously, as it has assigned a full time staff person to work with OTA and Mr. Dugan on this project. Full commitment from all parties to this project is necessary, especially because OCJ has indicated a strong desire for an appropriate MIS system to be in place prior to transition.

2. Capital Projects

As the TA has previously reported to the Court on multiple occasions, there are number of outstanding capital projects that must be completed. Of most critical importance to the safety and security at the facility are installation of the camera and electronic rounds tracking system, replacement of ceiling tiles in resident rooms, and remodeling of the recreational spaces.

The delays and setbacks associated with these projects at the County-level are too numerous to list here. Although Cook County Office of Capital Planning has reported anticipated timelines for these projects in the past, it has been unable to adhere to those timelines. For example, last fall the Director of Capital Planning reported to the Cook County Board of Commissioners that installation of the camera system should begin in May or June 2013. It appears unlikely that this timeline will be met, however, as the County is still working out a contract with the vendor.

The TA has requested that his counsel and counsel for the *Doe* parties confer on a weekly basis to monitor these projects closely for delays during the transition process. Although it might not be realistic to expect these projects to be complete prior to transition, the TA feels strongly that they need to be on an irreversible course of completion before transition occurs. In other words, the TA will not recommend transition unless the Court obtains firm assurance that these projects will be completed by a date certain and maintains some mechanism for compelling adherence the stated timetable.

II. Steps Taken By OCJ

The TA has been working collaboratively with the OCJ throughout the past several months, with the goal of educating the OCJ as to how the JTDC currently operates so that OCJ

can plan for transition. While the TA cannot speak for the OCJ, the TA is also aware of the following steps being taken by the OCJ.

1. Annie E. Casey Foundation Assessment

As the TA mentioned in his last report to the Court, the Annie E. Casey Foundation (AECF) has offered its services to the OCJ to conduct an operational assessment of the JTDC on the OCJ's behalf. Although the TA previously reported that the AECF assessment was expected to take place in January 2013, AECF has in fact scheduled the assessment for May 14-16, 2013. The *Doe* parties and OCJ have agreed that the AECF assessment will be used only to assist OCJ in its preparation for transition; it will not be used in this litigation.

2. Appointment of an Executive Director

As the TA understands it, OCJ has begun a national search for an Executive Director/Superintendent to replace the TA, but OCJ is still early in the screening process. As the TA has previously written, the TA strongly recommends that the incoming Executive Director become familiar with all operations at the facility and that he or she articulate a multi-year plan to maintain adequate conditions of confinement at the JTDC and to ensure compliance with the remaining provisions of the MOA and MIP. Consistent with Paragraph 11(b)(ii) of the Order Appointing a Transitional Administrator, some mechanism should be in place to ensure that OCJ operates the JTDC in a manner consistent with the MOA and MIP.

III. Other Matter: *Shakman* and the JTDC

There is one final issue of which the Court should be made aware. The Plaintiffs in *Shakman v. Democratic Organization of Cook County*, No. 69 C 2145 (N.D. Ill.), have recently requested that the TA develop and implement a long-term *Shakman* compliance plan at the JTDC. The TA is reluctant to undertake the project for two reasons.

First, it is unclear whether the *Shakman* consent decree extends to the JTDC, which transferred to OCJ by state statute in 2008. The purpose of the *Shakman* consent decree is to remedy Cook County hiring practices, but the County has had no control over hiring and firing decisions at JTDC for several years.³ Those issues have been handled exclusively by OTA, and they will soon be handled by OCJ. As the TA understands it, there is no other agency governed by OCJ that is required to implement a *Shakman* plan, and the TA questions other OCJ would even be required to follow whatever plan TA might implement.

Second, even if the *Shakman* consent decree does extend to the JTDC, the TA feels strongly that OTA should not assume responsibility for implementing it. OTA has already been given the enormous responsibility of implementing multiple statutes, regulations and court orders that govern all aspects of JTDC operations. In addition to implementing these decrees, the TA now has the added responsibility of coordinating an orderly transition to OCJ, which is a major undertaking in itself. Although achievable, this process is made more challenging by the fact that OCJ is not party to this litigation. The OTA needs to focus all of its resources on seeing this delicate and complex process through. Adding yet another consent decree and another federal court monitor to the mix at this point will further complicate (and potentially derail) this process. From the TA's perspective, it is in the best interest of the JTDC and the *Doe* litigation for any *Shakman* long-term compliance plan to be implemented by the OCJ and Cook County after transition is complete.

However, out of respect for whatever process might need to occur in the *Shakman* litigation, the TA has agreed to cooperate with the *Shakman* parties to the best of his ability. If

³ As the TA has reported to the Court on many prior occasions, OTA has used an outside personal agency for most of its recruiting and hiring at the JTDC. The OTA instructs the agency on the criteria it must consider, which includes nothing about political affiliation.

(1) the County and OCJ agree that OCJ must adhere to a long-term *Shakman* compliance plan at the JTDC, and if (2) the County and OCJ feel it is necessary to begin working on that plan before the *Doe* transition is complete, then the TA will follow their lead and cooperate in their process. For example, if OCJ devises a *Shakman* plan that is somehow inconsistent with the JTDC's operational needs, then the TA will make sure that OCJ understands the issues and plans accordingly. Such a role would be an appropriate one for the TA in the *Shakman* process.

Conclusion

The TA hopes that his report is useful to the Court and the *Doe* parties. A copy of this report will be served on all parties of record, as well as the OCJ. As always, the TA will be glad to answer questions or address any concerns.

RESPECTFULLY SUBMITTED,

/s/Elizabeth Mazur
Attorney for the Transitional
Administrator

Arthur Loevy
Jon Loevy
Elizabeth Mazur
Steven Art
LOEVY & LOEVY
312 N. May St., Suite 100
Chicago, Illinois 60607
(312) 243-5900

CERTIFICATE OF SERVICE

I, Elizabeth Mazur, an attorney, certify that on April 8, 2013, I served a copy of this document on all counsel of record via the Court's ECF system.

/s/Elizabeth Mazur