

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

JIMMY DOE, <i>et al.</i> ,)	
)	No. 99 C 3945
Plaintiffs,)	
)	Hon. James F. Holderman
v.)	District Judge
)	
COOK COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	

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

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

INTRODUCTION

On August 14, 2007, the Court entered an Agreed Order Appointing a Transitional Administrator. Dkt. 330 (“Appointment Order”). 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”), the Agreed Supplemental Order (“ASO”), 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 (“OCJ”). The Order also requires the TA to report to the Court on a regular basis. *See* Dkts. 458, 530, 646, 680, 686 (TA’s prior reports).

The TA is glad to report that the JTDC is close to being in substantial compliance with the ASO, MOA, and MIP, but important work remains before the OCJ will be in a position to assume administrative responsibility for the facility. Although the TA is working closely with the

OCJ toward a transition, several issues must be resolved before an orderly transition can take place. These issues are discussed in detail below.

DISCUSSION

I. Substantial Compliance with the ASO, MOA, and MIP

The JTDC is close to being in substantial compliance with the ASO, MOA, and MIP. As discussed in further detail below, there are certain provisions of these Orders for which the facility has not reached substantial compliance. For each such provision, however, the JTDC is either well on its way to being in substantial compliance (pending the completion of capital projects), or else the TA is seeking a modification of the provision at issue.

A. Compliance Report

The Office of the Transitional Administrator (“OTA”) has conducted a systemic assessment of the JTDC’s compliance with all provisions of the ASO, MOA, and MIP. The TA’s comprehensive report, describing the state of the facility’s compliance with each requirement of the ASO, MOA, and MIP, is attached here as Exhibit A. In summary, the JTDC is in substantial compliance with approximately 76% of provisions in the MOA and 62% of those in the MIP. In addition, the JTDC is in partial compliance with an additional 16% of provisions in the MOA and 25% of provisions in the MIP.¹ The JTDC is therefore in substantial or partial compliance with more than 89% of all provisions of the MOA/MIP.²

¹ For example, the JTDC is in partial compliance with the MOA requirement that the facility put in place an adequate system for staff discipline, among other things. The TA alone cannot develop such a system, which among other things will require changes in the collective bargaining agreements with employee unions. That will be the responsibility of the OCJ and the parties, as administration of the facility is transitioned to the OCJ.

² The TA’s determination of substantial and partial compliance is based on policies and practices currently in place at the JTDC. With respect to the MOA/MIP requirements for which the facility has not reached partial or substantial compliance, the TA has found: (1) that approximately 3.5% of these requirements are “not applicable,” meaning that they no longer apply to the JTDC (*e.g.*, they were abolished in the Appointment Order) or they do not apply because a predicate event has not brought a

Exhibit B to this report provides the Court with charts and worksheets that summarize the JTDC's compliance with the ASO, MOA, and MIP. As the Court will see, important—but now limited—work remains to bring the JTDC into substantial compliance with the ASO, MOA, and MIP. As discussed in detail below, the focus of the TA's and the parties' efforts can now shift to planning for a satisfactory transition. The TA is happy to comment in further detail on his assessment of the JTDC's compliance at the Court's request.

B. The OTA's Transition Plan

Progress toward transition of authority to the OCJ has been and remains a top priority for the TA, and as noted in the TA's last report, the OTA has been engaged for some time in the process of preparing a comprehensive transition plan for the JTDC. The TA is pleased to announce that the transition plan, prepared by the TA's Transition Plan Committee, is now complete. A copy of the transition plan is attached to this report as Exhibit C.

The transition plan is based upon the perspectives of a wide range of key individuals and analyzes: (1) the complex issues at the JTDC that preceded the appointment of the TA; (2) actions taken by the TA; (3) yet-to-be accomplished steps required for a successful transition; and (4) the critical elements of a successful transition from the TA to the OCJ. The transition plan is a comprehensive account of the history and reform of the JTDC, and it is designed to assist the OCJ in a transition process that will preserve the significant accomplishments of the OTA and continue to improve the JTDC. The transition plan represents the start of a process that will be necessary to ensure a successful transfer of administration from the TA to the OCJ.

particular requirement into play (*e.g.*, the JTDC is not currently overcrowded, and so certain provisions of paragraph 39 are not implicated at this point in time); (2) that approximately 3.5% of these requirements involve provisions where the TA is requesting an exemption or modification of the requirements set out in the MOA or MIP; and (3) that approximately 3.5% of these requirements involve requirements with which the facility has not yet complied.

C. Modification Requests

As the TA has referenced in prior reports, he is seeking modification of certain provisions of the MOA/MIP.³ A complete list of the provisions for which the TA seeks modification is attached to this report as Exhibit D.

In November 2013, the TA met with the *Doe* parties to discuss these modification requests. The only requests over which concern was noted were the requests relating to paragraph 19, sections 2.17 and 2.6 of the MOA/MIP, regarding substance abuse treatment at the JTDC. Plaintiffs' counsel and the OTA are discussing this issue with one another, and they hope to reach a resolution shortly.

For the most part, the TA's requests for modifications reflect the discovery and implementation of better methods to achieve the goals served by the particular provisions of the MOA/MIP at issue. For example, the TA seeks a modification of paragraph 24, section 2.4 of the MOA/MIP, which requires the development of a special unit to house suicidal residents of the JTDC. The reason for the requested modification is that residents who are deemed a substantial suicide risk are no longer housed at the JTDC—they are now referred to external medical facilities where they are more appropriately treated, conserving the JTDC's operational resources. Other requests for modifications reflect simple, positive changes in technology. For example, paragraph 33, sections 2.1 and 2.2 of the MOA/MIP require the JTDC to keep certain data in a database that is outdated and that will no longer be used at the JTDC. With respect to this provision, the TA seeks permission to keep the data instead in the electronic medical records system that will soon be installed at the JTDC. If the Court wishes further detail or explanation on the modification requests set out in Exhibit D, the TA is glad to provide it.

³ The MOA contemplated that certain provisions contained within the MOA or the MIP might warrant modification as time passed and better approaches for reaching constitutional standards were revealed. *See* MOA ¶ 63.

D. Capital Projects

As the TA noted above and has previously reported to the Court, completion of various capital projects is an essential component of bringing the facility into substantial compliance. The Cook County Bureau of Technology (“BOT”) has committed to providing upgraded infrastructure, resources, and personnel for these projects.

1. Resident Management Information System (RMIS)

As previously reported, the JTDC must implement a new resident management information system (“RMIS”). This is necessary for two reasons: First, the old platform, called DSI, is no longer supported by the vendor. Second and more importantly, compliance with the quality assurance provisions of the MOA and MIP requires the JTDC to maintain and track data in a manner that is not possible using the current system. Implementation of an appropriate RMIS is therefore critically important to the transition process.

Over the past several months, Bob Dugan, a consultant to the OTA, has been working closely with the BOT and the OCJ to initiate procurement of an appropriate RMIS. The County recently obtained bids from vendors, which were evaluated jointly by the JTDC, the BOT, and the OCJ. It is anticipated that a vendor will be selected and approved by the County Board in February or March 2014. Once the new vendor for an RMIS is chosen and the contract is approved, this project will require close attention from Mr. Dugan, the BOT, and the OCJ to ensure it is implemented appropriately and that staff is properly trained on its use. The TA has concerns that the changes in oversight at the BOT may delay implementation of the new RMIS.

2. Other Capital Projects Are Underway

The TA is glad to report that the other capital projects needed to maintain safety and security at the JTDC are well on their way to completion. Installation of the security

camera/rounds tracking system is about 35% complete, while installation of the new ceiling tile and lighting system in the living units is about 65% complete.

The gymnasium and recreation yard projects—which are needed to ensure that residents get basic, minimum large muscle activity each day—are still in the early stages, although the County appears committed to seeing those projects through. The same applies to the electronic medical record system, which will ensure that the JTDC stays in compliance with certain medical provisions of the MOA and MIP and maintains its NCCHC accreditation.

II. Planning an Orderly Transition to the OCJ Remains an Issue

Under the Appointment Order, the TA is charged not only with bringing the JTDC into substantial compliance with the ASO, MOA, and MIP, but he also must make plans for an orderly transition of the facility to the OCJ. *See* Doc. 330, ¶ 9(b) (“At least 60 days prior to the termination of his appointment, the TA shall develop a plan for the post-TA operation of the JTDC, which shall include consideration of the structure, funding, and transition to [the OCJ.]”); *see also id.* ¶ 11(b)(i) (“Throughout the appointment of the TA, it shall be the responsibility of the TA to assess the capacity of the JTDC for the purpose of transitioning administrative and operational authority to [the OCJ.]”).

At this time, planning for an orderly transition of the JTDC to the OCJ is a top priority, and the one that currently requires the most attention from the TA, the parties, and the OCJ. There are two principal issues relating to this subject: First, planning the transition and coordinating with the OCJ to formulate and carry out a transition plan is itself a complex project. Second, the transition is made even more complicated by the fact that the plan for transition must ensure that the *Doe* parties and the OCJ can manage the dramatic increase in the JTDC population expected during 2014 as a result of the new Illinois “Raise the Age” legislation,

which will route into the juvenile system a number of children who were formerly treated as adults. These issues are discussed in turn below.

A. The OCJ's Readiness for Transition

As the TA has mentioned previously to the Court, the TA feels strongly that any plan for post-TA operations at the JTDC must be developed collaboratively with the OCJ. The OCJ had commissioned a series of reviews, as referenced by the TA in previous reports, with the Annie E. Casey Foundation. These reviews have provided the OCJ some necessary and essential insight in preparation for transition as well as planning for the "Raise the Age" legislation.

On January 9, 2014, Chief Judge Evans and the TA participated in a conference call, in which they agreed to take initial steps for the Chief Judge to meet with the JTDC Executive Team, in order to consider formation of a "transitional working group." Other issues discussed included the impact of the "Raise the Age" legislation and the JTDC's maximum operating capacity. It was agreed that respective staff would begin preliminary work and that the Chief Judge and the TA would meet again in the very near future.

B. Raise the Age Legislation

Any plan for transition must include mechanisms for managing the increase in the JTDC population that is expected this year and for ensuring that residents' constitutional rights are protected in the face of this increase. By way of background, on January 1, 2014, new Illinois legislation went into effect, increasing the age for juvenile-court jurisdiction from 17 to 18. This new legislation means that 17-year-olds charged with misdemeanors, nonviolent felonies, and some violent felonies will now be tried and sentenced in juvenile courts, rather than in adult courts. The legislation will have a significant impact on the JTDC, both because the JTDC

population is likely to increase significantly and because older residents of the JTDC have different needs than younger residents and present different challenges.

Although these developments will require many programmatic adjustments at the JTDC,⁴ the more immediate concern is whether the current JTDC facility can house these additional young people in a manner that complies with minimum constitutional standards.

1. The Functional Operating Capacity of the JTDC is 382 Residents

As the Raise the Age legislation goes into effect at the JTDC beginning this month, population safeguards will need to be put into place to ensure operating effectiveness of the programs associated with the ASO, MOA, and MIP. The functional operating capacity of the JTDC is 382 beds. That functional operating capacity reflects the number of beds reasonably available to house residents in a way that does not jeopardize their constitutional rights.

Accordingly, the functional operating capacity of the JTDC is less than the total rated bed capacity of 498 beds, because a number of the total 498 beds have been designated as unusable. The beds are unusable because of security and safety demands, repair and maintenance issues, or because they have been designated for use for another important purpose under the MOA/MIP.

The JTDC's functional operating capacity of 382 beds is calculated as follows, based on requirements set forth in the MOA/MIP: The facility is divided into 17 pods with 18 beds, and 12 pods with 16 beds. Two beds in each 18-bed pod, or 34 beds total, must be deducted from the total number of beds available to remain in compliance with the Prisoner Rape Elimination Act of 2003 ("PREA"), Pub. L. 108-79. In order to provide minimally adequate health and mental health services, one bed in each 16-bed pod, or 12 beds total, must be reserved for mental health

⁴ One example is that the JTDC and Nancy B. Jefferson school have been working together with community organizations in an effort to bring life skills, transitional skills, life coaches, recreational activities, and other services to the JTDC population. This program will have to adapt to accommodate 17-year-olds who are beyond compulsory school age.

and medical satellite offices, as set forth in the MOA/MIP. There are approximately 46 rooms unavailable at any given time at the JTDC for maintenance reasons, including an average 14 rooms that are uninhabitable and two pods of 16 beds each, which are reserved for the Building Trades Initiative—a program created to perform routine preventative maintenance on pods so that their continued viability is ensured. Finally, approximately 24 beds are unavailable for use due to the JTDC's housing classification system, which separates youth by sex, committing court, age and vulnerability, number of prior admissions to juvenile detention, and the type of stay (intake and admissions, or general population).

2. The Transition Plan *Must* Address Expected Increases in JTDC Population

Because of the requirements of the MOA/MIP, the obligations of the TA, and the operational capacity of the JTDC discussed above, any plan for an orderly transition of the JTDC to the OCJ must include provisions that ensure that the JTDC population remains at a manageable level. Housing a population greater than 382 residents would mean that the JTDC is not meeting the standards laid out in the MOA/MIP; and a population above that operational capacity would call into serious question the ability of the facility to protect the constitutional rights of residents.

The TA has personally witnessed and has served as an expert on the detrimental effects that over-population can have on facilities like the JTDC. Overcrowding at a facility affects the safety of both residents and staff, particularly in an antiquated physical plant like the JTDC. A population above operating capacity leads to an increase in both assaults against staff and fights among residents. These problems are compounded by the fact that the JTDC must now manage a population of residents that will now include 17-year-olds. Setting the functional operating

capacity at 382 ensures sufficient staffing levels and provides a safety threshold for both residents and staff of the JTDC. *See* Ex. C at 60–61.

Increasing the population at the JTDC will also put a significant strain on the facility's already limited resources. The JTDC is in the process of opening two additional Centers (for a total of 9 Centers) to accommodate an increase in population. To maintain a population at or below functional operating capacity, the TA must cap each 18-bed pod with 14 residents and each 16-bed pod with 12 residents.

III. Other Items Relevant to Transition of Interest to the Court

A. Internal Investigations

The OTA has been handling internal investigations of incidents or allegations involving serious misconduct by residents or staff since the TA's appointment. In anticipation of the transition to the OCJ, this investigative function will be transferred to a JTDC employee who will work with the Deputy Executive Director for Resident Advocacy and Quality of Life. A chart summarizing the results of internal investigations between 2008 and December 1, 2013, is attached to this report as Exhibit E. So far in 2013, a total of 317 investigations have been undertaken, which is substantially more than any previous year during the TA's tenure.

B. Compliance with the Federal Prison Rape Elimination Act

The JTDC continues to make progress in meeting requirements of the federal Prison Rape Elimination Act. The JTDC has convened a PREA Committee, which has conducted an assessment of the facility based on U.S. Department of Justice guidelines and has developed policies, procedures, staff training, and resident orientation materials to comply with PREA standards. The JTDC's PREA Committee is also working with community agencies to develop a Memorandum of Understanding to provide services to JTDC residents.

C. Suicide Prevention

Although there is no record of any recent suicide within the JTDC, the TA has been developing and refining the facility's suicide prevention program since 2007. The TA has made a number of physical changes to the JTDC and improved training to staff on youth suicide prevention strategies.

The TA recently hired Lindsay M. Hayes, a juvenile justice consultant from the National Center on Institutions and Alternatives, to assess current suicide prevention practices at the JTDC and to offer recommendations to improve those practices. In his report, Mr. Hayes found that the facility had a good suicide prevention program and made a number of recommendations to help the TA continue to improve the program. His findings and recommendations are attached as Exhibit F. The TA is currently working to implement his recommendations to the suicide prevention programs at the JTDC.

CONCLUSION

The TA hopes that his report is useful to the Court and to the parties. A copy of the report has also been sent to the OCJ. The TA will be present at the next status hearing on January 14, 2014, and he will be glad to answer questions or address any concerns at that time.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I, Steven Art, an attorney, certify that on January 10, 2014, I served this document on counsel of record via the CM/ECF system.

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