



June 17, 2010

Jane Lynch
Chief Operating Officer
NYS Commission on Quality of Care
And Advocacy for Persons with Disabilities
401 State St.
Schenectady, NY 12305-2397

Dear Chief Operating Officer Lynch:

Thank you and the Commission for the thorough and comprehensive review of the Residential Crisis Treatment Programs (RCTP). RCTP's are critical to the safe and effective operation of Correctional Facilities as it provides inmates with a safe, clinically informed and suicide resistant environment in which their needs can be assessed and addressed. As you've past noted, the RCTP is an integral component of Central New York Psychiatric Center's (CNYPC) service continuum. Our 20 program sites strategically located across New York's correctional system provide inmates in acute distress with timely access to safe and supportive environments where triage services are provided.

In responding to your specific recommendations, we will focus on those areas and recommendations that are OMH specific and not comment on those that pertain solely to DOCS.

Recommendation 1: Continue to monitor the mental health caseload to ensure that all inmates who have a diagnosis that is defined in the SHU Exclusion Law as a serious mental illness have the required "S" designation.

Response: As a point of clarification, OMH and DOCS are currently using the definition of Serious Mental Illness (S-Designation) contained in the Private Settlement Agreement. The SHU Exclusion Law definition will be applied in July, 2011 when the law takes effect. Notwithstanding, OMH is committed to ensuring that every inmate with a qualifying diagnosis is designated as an "S" in the DOCS FPMS system. We have taken several steps to improve these designations. We reissued the policy and procedure and required all clinical staff to review these with their Unit Chief. In addition, every inmate-patient on the OMH caseload was reviewed to ensure compliance with the policy. Aspects of the policy/procedure that afforded staff excessive time to make an "S" determination were addressed. Clinicians considering an inmate-patient as "S"-pending led to many of the gaps observed by Commission staff in your review. Currently, CNYPC's policy requires the OMH clinician to make a determination of "S" status at the time of admission to service. In addition, to ensure that this process is being implemented correctly on an ongoing basis, CNYPC Program Evaluation Staff complete



a review and analysis of the entire caseload once-per-month, to ensure that any individuals with a qualifying diagnosis are correctly identified as "S" in the DOCS FPMS system. If a case is found that should be "S" designated that is not, the Unit Chief at the location of the inmate-patient is informed of the need to make a change immediately. This monitoring of critical functions will continue monthly.

Recommendation 2: Continue to review and expand DOCS and OMH substance abuse treatment programs to ensure that inmates with serious mental illness have timely access to substance abuse treatment.

Response: OMH will continue to focus on this important need of the population we serve. OMH has arranged for clinical staff working within our Intermediate Care Program to receive Integrated Dual Disorders Treatment (IDDT) training beginning in late summer, 2010. This training is a web-based application developed through the Distance Learning Initiative Collaborative with the Psychiatric Institute and Columbia University that will include 35 online modules to train practitioners in this Evidence Based Practice. In addition, we have increased group offerings regarding substance abuse issues at all Intermediate Care Programs (ICP). These services are provided in conjunction with DOCS correction counselors. Also, as you know, DOCS is the primary provider of substance abuse treatment services in their facilities but OMH will continue to partner with DOCS to expand offerings where possible.

Recommendation 3: Maximize the therapeutic nature of the RCTP and decrease the perception that RCTP is punishment by:

- Ensuring that the restriction and restoration of amenities is based on an individualized assessment of each inmate with an emphasis on the restoration of amenities – especially underwear, clothing and eating utensils, as soon as clinically appropriate;

Response: Before addressing the substance of this recommendation, it should be clarified that all inmates receive a suicide prevention smock for privacy. While we understand the concerns of both the inmates we serve and the Commission, inmate safety is paramount. DOCS and OMH have carefully considered other options but have yet to find a suitable alternative to the use of these smocks. Given that we serve inmates in crisis, we've found that these specially designed garments provide sufficient coverage so that each inmate's privacy is maintained while ensuring that they are safe by not having at their disposal, clothing that could be used in an attempt to injure or kill themselves. Both agencies take very seriously their responsibility to ensure the safety of inmates in custody. It should be noted that at the present time an individualized assessment of each inmate does occur, and forms the basis for decisions regarding amenities. However, in response to this recommendation, and in recognition of our agreement that amenities should be maximized for inmates in RCTP settings, OMH will provide system wide training to OMH clinical staff to encourage them to increase amenities as early as is appropriate. This training will be completed by August 1, 2010. In addition, CNYPC supervisory staff will monitor the provision of amenities to RCTP inmates, by reviewing a sample of

records each quarter. Finally, increased use of Dorms will be discussed with DOCS staff at the next Interagency Quarterly Meeting. The Commission's legitimate concerns about the temperature and use of fans is noted and should be addressed as part of DOCS' response.

Recommendation 4: Revise policies and procedures to include transfers from CNYPC or for inmates in need of respite from environmental stressors. The Commission recommends that such policies and procedure acknowledge that there may be less risk of self-harm for these inmates and housing and access to amenities should be based on least restrictive principles while they are in the RCTP.

Response: OMH agrees that revising policies and procedures to reflect current practice is appropriate. As the Commission points out, to ensure continuity of care and smooth transition, inmate-patients often spend a day in RCTP upon discharge from CNYPC and it is appropriate to include this in the formal policy and procedure. Likewise, as the Commission points out, inmates often stay in RCTP for reasons other than a mental health stressor. RCTP serves many functions and at times that includes affording the inmate a respite from environmental stressors. It is appropriate to revise policies and procedures to reflect this issue as well. As with all RCTP admissions, OMH policies will endeavor to maximize access to amenities and adhere to least restrictive principles.

Recommendation 5: Improve documentation in:

- Nursing assessments and progress notes;
- RCTP monitoring forms;
- Consultation with CNYPC for length-of-stay of seven days or more; and
- Security log books – clearly identify watches, when mental health staff are on units and document mental health staff review of suicide watch log books.

Response: OMH strives to continually improve documentation. To this end, OMH will increase HIM Tech and Unit Chief review of documentation areas noted above as part of our regular monitoring of documentation completion. A comprehensive report will be issued on a quarterly basis and units will be required to achieve 90% compliance. If compliance isn't achieved, Units will be required to develop a plan of correction and submit that plan to CNYPC Corrections Based Operations who will monitor compliance with the plan. CNYPC will review the nursing assessment form for possible revision. Given the triage function of the RCTP and the short length of stay, we will consider a streamlined form highlighting the essential elements of the assessment. OMH will work with DOCS to discuss the feasibility of revising this form and other protocols that may be affected by revisions. With regard to the seven-day consults, a review of CNET data indicates that these are always completed and that the issue is documentation in the clinical record. To improve documentation, CNYPC has developed a consult documentation form which will be completed at the time of the consultation and placed in the inmate-patient's clinical record.

Recommendation 6: Reconsider the recent OMH decision to identify the reason for transfer on RCTP monitoring forms only in cases of self-harm or assaultive behavior.

Response: OMH understands the Commission's interest in this issue and agrees to reinstate reasons for transfer on RCTP monitoring forms. Since the presenting reason for the initial placement in the RCTP may, upon assessment and treatment, reveal underlying issues or motivations, the presenting issue will be recorded and a final determination as to the reason for transfer will be offered upon conclusion of the course of RCTP treatment.

We look forward to continuing to work with the Commission and your staff on issues of importance to better serve inmates in NYS DOCS custody.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Hogan', with a long horizontal stroke extending to the right.

Michael F. Hogan, Ph.D.
Commissioner



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS – BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

June 17, 2010

Honorable Jane Lynch
Chief Operating Officer
NYS Commission on Quality of Care & Advocacy
For Persons with Disabilities
401 State Street
Schenectady, NY 12305-2397

Dear Ms. Lynch:

This is in response to your comprehensive report of CQC's findings following a review of the Residential Crisis Treatment Programs (RCTPs) at eight correctional facilities last year. While the full report highlights concerns and issues related to both the Department of Correctional Services and the Office of Mental Health, the following is this agency's response to those specific findings and recommendations which are applicable to DOCS.

1. Continue to monitor the mental health caseload to ensure that all inmates who have a diagnosis that is defined in the SHU Exclusion Law as a serious mental illness have the required "S" designation.

OMH monitors the caseload and ensures that all inmates who have one of the SMI diagnoses listed in the DAI Private Settlement Agreement (PSA), are designated as SMI.

In 2007, DOCS began monitoring the SMI population through weekly listings that are automatically printed for each facility Superintendent's review and use. A listing of the inmates designated as SMI in the entire system is also generated and reviewed by both DOCS and OMH. In addition, at its monthly meetings, members of the Joint Central Office Review Committee (JCORC) review a trend report which breaks down the SMI population by housing location and disciplinary status for the last 12 months.

2. Continue to review and expand DOCS and OMH substance abuse treatment programs to ensure that inmates with serious mental illness have timely access to substance abuse treatment.

RCTPs are used for short term housing for inmates in crisis. Once an inmate is stabilized, he is returned to a housing location where he can participate in regular DOCS programming. The Department currently operates Alcohol and Substance Abuse Treatment (ASAT) programs for all inmates in the system with an identified substance abuse treatment need, including inmates on the mental health caseload. There currently are 15 special programs where we offer the Integrated Dual Disorder Treatment (IDDT) program to SMI inmates. These programs are in operation at the Behavioral Health Unit in Sullivan Correctional Facility, the Residential Mental Health Unit at Marcy Correctional Facility, and at a number of Intermediate Care Programs at various facilities. We also plan to expand the IDDT program to the Bedford Hills Therapeutic Behavior Unit (TBU) program.

There are just over 2,500 inmates who are designated as SMI, of whom 2,000 have an identified substance abuse treatment need. Of that number, almost half, 943, have either satisfied or are in the process of satisfying their identified substance abuse treatment need. Given the expansion of ICP programs late last year (Green Haven, Bedford Hills and Great Meadow) and the additional RMHU to be located at Five Points Correctional Facility, where we plan to offer the IDDT program, we are confident we will have sufficient program slots to address the alcohol and substance abuse treatment needs of those inmates who are also seriously mentally ill.

3. Maximize the therapeutic nature of the RCTP and decrease the perception that RCTP is punishment by:

- monitoring the temperature in observation cells to ensure that it is comfortable for inmates, especially those in suicide prevention smocks
- banning the use of punitive measures such as fans as a form of inmate management
- ensuring that all correction officers working in RCTPs, including relief staff, receive additional mental health training

As pointed out in the report, based on inmate responses to surveys and interviews, more than half of the inmates interviewed by CQC staff reported that they thought being in the RCTP helped them. In addition, seventy percent of the inmates interviewed reported they received good treatment from the correction officers in the RCTP.

We agree that monitoring and recording temperatures in the RCTP will ensure that an adequate temperature is maintained and are in the process of formulating a procedure to implement this suggestion at all RCTPs.

The use of fans in the observation cell area is sometimes necessary due to foul odors from unhygienic acts on the part of some inmates. Fans are never to be used to manage inmate behavior.

Any inmate complaint of harassment or abuse of authority is investigated, and if substantiated, appropriate action is taken to address the situation. DOCS conducted a review of inmate grievances coming from the mental health satellite units. This review did not indicate the use of fans to be an issue. In fact, there were very few, if any, grievances filed regarding treatment by DOCS staff in this area.

At the facilities where inmates made these complaints to your staff, as a precaution, the Superintendents did remind staff that when a fan is in use, care should be taken to ensure it is not pointed directly into an inmate's cell.

With respect to the issue of training, currently DOCS personnel who are regularly assigned to a mental health satellite unit are provided 8 hours of training by OMH and DOCS annually. This was implemented on a system-wide basis in 2009. We will continue to monitor this training to ensure that it is relevant and beneficial to the DOCS staff working in these units.

4. Improve documentation in security log books – clearly identify watches, when mental health staff are on units and document mental health staff review of suicide watch log books.

The Department has a policy for log book entries in all units where inmates are housed. DOCS has issued the attached memorandum to serve as a reminder to staff to include in the unit activity log book, and the suicide watch log book where appropriate, the name and title of the mental health staff person who comes to the satellite unit to conduct the out of cell interview. The entry shall include the time the inmate was removed from his/her cell for the interview, and the time the inmate was returned to his/her cell.

OMH staff are already permitted to review the suicide watch log books and document this review by signing the log book.

The Department would like to acknowledge the time and effort expended by all of the CQC employees who were involved with this review and their desire to increase the effectiveness and the caliber of all mental health programs which are operated within Department correctional facilities.

Sincerely,



Brian Fischer
Commissioner

Attachments

cc: Diane Van Buren, Asst. Commissioner
Howard Holanchock, Asst. Commissioner
Richard Miraglia, Assoc. Commissioner – OMH
Donald Sawyer, Exec. Dir. – CNYPC
Jayne Van Bramer, OMH



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

June 17, 2010

MEMORANDUM

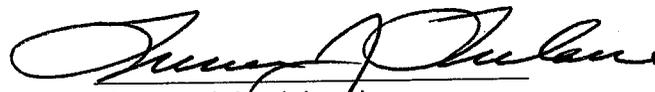
TO: William Powers, Superintendent, Albion Correctional Facility
James Conway, Superintendent, Attica Correctional Facility
Harold Graham, Superintendent, Auburn Correctional Facility
Sabina Kaplan, Superintendent, Bedford Hills Correctional Facility
Thomas Lavalley, Superintendent, Clinton Correctional Facility
Ada Perez, Superintendent, Downstate Correctional Facility
Mark Bradt, Superintendent, Elmira Correctional Facility
William Connolly, Superintendent, Fishkill Correctional Facility
John Lempke, Superintendent, Five Points Correctional Facility
Norman Bezio, Superintendent, Great Meadow Correctional Facility
William Lee, Superintendent, Green Haven Correctional Facility
Joseph Bellnier, Superintendent, Marcy RMHU
William Hulihan, Superintendent, Mid-State Correctional Facility
Philip Heath, Superintendent, Sing Sing Correctional Facility
James Walsh, Superintendent, Sullivan Correctional Facility
Robert Kirkpatrick, Superintendent, Wende Correctional Facility

FROM: Lucien J. Leclaire, Jr., Deputy Commissioner

RE: Log Books in Mental Health Observation Cell Areas

This memorandum is intended to ensure consistency in recording of activity in mental health observation cell areas. Obviously, the entries listed in Section III of Directive #4091, Log Books, should be included.

In addition, an entry will be made whenever an inmate is taken out of their observation cell for a mental health interview. The entry should indicate the reason, i.e. interview with mental health, as well as the time the inmate is taken out and then returned to their cell. If the inmate is on a suicide watch, the same entry will be made in the suicide watch log book.


Lucien J. Leclaire, Jr.
Deputy Commissioner