

ORIGINAL

JOCLYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

ROY L. AUSTIN
JONATHAN M. SMITH
LAURA COON
VERLIN DEERINWATER
Civil Rights Division
Washington, DC 2004
Phone (202) 514-6260
Email: verlin.deerinwater@usdoj.gov

Attorneys for Plaintiff United States

DAVID M. LOUIE 2162
Attorney General
State of Hawai'i

DIANE K. TAIRA 3761
RICHARD W. STACEY 6419
Deputy Attorneys General
Department of the Attorney
General, State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Phone: (808) 587-2978
email: diane.k.taira@hawaii.gov

Attorney for State of Hawaii Defendants

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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STATE OF HAWAII, et al,

Defendants.

Civil No. CV08 00585 JMS KSC

JOINT SUBMISSION OF
CORRECTIVE ACTION PLAN;
CORRECTIVE ACTION PLAN
JOINT MOTION FOR
MODIFICATION OF RULE 41(a)(1)
SETTLEMENT AGREEMENT; AND
PROPOSED ORDER ENTERING
CORRECTIVE ACTION PLAN AS
ORDER OF THE COURT AND
APPOINTING MONITOR

JOINT SUBMISSION OF CORRECTIVE ACTION PLAN
AND JOINT MOTION FOR MODIFICATION OF RULE (a)(1)
SETTLEMENT AGREEMENT

Plaintiff, United States of America and Defendants, State of Hawaii, et al., hereby submit the attached Corrective Action Plan for entry by the Court and jointly move for modification of the December 29, 2008 Settlement Agreement entered pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Procedural History

1. The original Settlement Agreement was entered in this case on December 29, 2008, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. That Settlement Agreement resolved the United States Department of Justice's Complaint related to mental health care and suicide prevention measures provided to detainees at the Oahu Community Correctional Center ("OCCC") pursuant to the Civil Rights of Institutionalized Person, Act 42 U.S.C. § 1997.

2. The December 29, 2009 Settlement Agreement addressed various facets of mental health services at OCCC, specifically including seclusion and restraints, the administration of psychotropic medications, mental health screening, individualized treatment planning, mental health programming, professional staffing levels, specialized training, maintaining quality assurance, and suicide prevention. By June 29, 2013, the State had achieved substantial compliance with the Settlement Agreement provisions in each area listed above except suicide

prevention.

3. The Parties have agreed that continued efforts should be made concerning suicide prevention and, to avoid adversarial litigation, provide further guidance to the State in achieving compliance. To those ends, the parties have negotiated the attached Corrective Action Plan and request that it supersede the June 29, 2012 Compliance Plan as the operative remedial agreement in this matter.

4. The Corrective Action Plan set forth numerous objectives and actions that the State and OCCC will take to implement appropriate suicide prevention practices at OCCC including, but not limited to providing mental health treatment to address potentially suicidal behavior; timely and adequate follow-up of inmates after they are released from suicide precautions; providing inmates on suicide precautions with adequate monitoring; supervising and providing mental health treatment for inmates in the jail's segregation or holding cells areas; and various other matters critical to the implementation of suicide prevention practices to protect OCCC detainees.

5. Further, given that there have been multiple extensions of the Settlement Agreement, the Parties now request the Court dismiss the Termination provision of the Settlement Agreement (Settlement Agreement, Section V). Thereafter, this lawsuit's ultimate dismissal will occur when the State and OCCC have achieved substantial compliance with the terms of the Corrective Action Plan.

To ensure the matter terminates as soon as appropriate, the parties have agreed to participate in 30-day status conferences among themselves to assess the State and OCCC's compliance with the Corrective Action Plan and constitutional requirements on an ongoing basis.

6. Further, the parties have agreed that this matter should be removed from the Court's inactive docket and placed on the Court's active docket and that the Corrective Action Plan be entered as an Order of the Court, subject to

7. Finally, given the Corrective Action Plan's targeted focus, the Parties do not believe the services of the Settlement Agreement's Independent Monitor, Russell Van Vleet, are further required. The Parties acknowledge the excellent work Mr. Van Vleet has done in this matter and thank him for his assistance to the Parties and his efforts to improve conditions at OCCC. Mr. Van Vleet had been assisted in his monitoring responsibilities by Lindsay M. Hayes, an expert in the field of suicide prevention. Mr. Hayes will continue to serve as technical advisor to the Parties, as well as monitor implementation of the Corrective Action Plan.

8. The Parties agree that Mr. Hayes will serve as the Monitor to the parties. His costs will continue to be borne by the State. In his role as Monitor, Mr. Hayes shall:

a. Serve as the liaison between OCCC, the State, and the DOJ regarding compliance with the Corrective Action Plan. The Monitor's exclusive

duties are to oversee and promote implementation of the provisions of the Corrective Action Plan.

- b. Specifically, the Monitor's duties shall include, but not be limited to:
 - i. Monitoring and facilitating the State's compliance with each of the provisions in this Corrective Action Plan;
 - ii. Reporting to the Parties every thirty (30) days regarding compliance with each provision of the Corrective Action Plan during the monthly teleconference calls;
 - iii. Facilitating meetings between the parties on regular and periodic basis to update the parties regarding compliance with the Corrective Action Plan, including areas of improvement and areas of concern; and
 - iv. Providing to the parties any relevant information know, or available to the Monitor, under any provision of the Corrective Action Plan upon reasonable request.
- c. The Monitor shall be permitted to initiate and receive ex parte communications with the parties regarding any matter related to this Corrective Action Plan.

9. The Monitor shall have full and complete access to the OCCC, records, staff and detainees. The State shall direct all employees to cooperate fully

with the Monitor. All non-public information obtained by the Monitor shall be maintained in a confidential manner.

THEREFORE, the Parties respectfully request the Court and enter an order to:

- 1) Place the matter on the Court's active docket;
- 2) Enter the attached Corrective Action Plan as an Order of the Court, thereby making the Plan the operative remedial agreement in this matter, and subject to the Court's enforcement powers;
- 3) Dismiss Section IV ¶¶ 44-52 (concerning the Monitor) of the December 29, 2008, Settlement Agreement;
- 4) Dismiss Section V (Termination) of the December 29, 2008, Settlement Agreement;
- 5) Accept Lindsay M. Hayes as the Monitor in accordance with the Paragraph 7-8 above, and
- 6) Continue all other provisions of the Settlement Agreement not in conflict with the Correction Action Plan.

FOR THE STATE OF HAWAII:

DAVID M. LOUIE
Attorney General
State of Hawaii

FOR THE UNITED STATES:

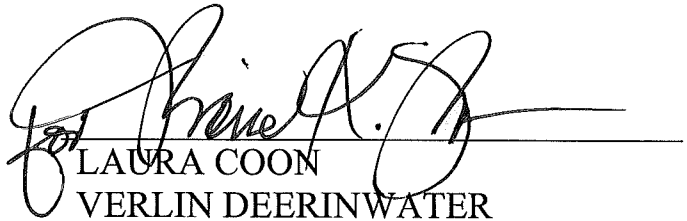
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DIANE K. TAIRA
RICHARD W. STACEY
Deputy Attorneys General
Phone: (808) 587-2978
email: diane.k.taira@hawaii.gov

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Email: verlin.deerinwater@usdoj.gov