

Their diagnoses are PTSD (5), ADHD (4), Cannabis/Alcohol/K2 Use Disorder (4), Depression (1), Disruptive Mood Dysregulation Disorder (1), Generalized Anxiety Disorder (1), Oppositional Defiant Disorder (1), Circadian Rhythm Sleep Disorder (1), Antisocial with Narcissistic traits (1), Personality Disorder(1) and Conduct Disorder (13). They are prescribed the following psychiatric medications: Clonidine (5), Risperidone/Risperdal (4), Prazosin (2), Abilify (1), Intuniv (1), Olanzapine (1), Prozac (1), Quetiapine (1), Remeron (1), Seroquel (1), Trazodone (1), Vistaril (1), and Zoloft (1).

The 10/14 draft Finger Lakes QAI report commended the facility's enhancement programs including the acting group, debate team, yoga classes, and dog training.

B. Assessment Protocols

The assessments used the following format:

1. Pre-Visit Document Review

The Monitors submitted a list of documents for on-site review. The Monitors worked with OCFS to make the document production and review processes more efficient, especially ways to make the transportation of documents easier for Home Office without compromising the quality of information provided. The Monitors also received the Pilot Program Review: Finger Lakes Residential Center (Draft) or the QAI Report from the Quality Assurance and Improvement (QAI) Bureau in advance of the monitoring visit.

2. Use of Data

The Office of Children and Family Services (OCFS) has a good management information system with access to a wide range of data. A further review of the system and its capabilities allowed for the development of Excel spreadsheets for the regular collection and dissemination of facility data to the Monitors. The Monitors were given OCFS' seventh Six-Month Progress Report on the Master Action Plan (MAP) on June 13, 2014.

3. Entrance Interview

The entrance interview occurred on November 4, 2014 and included the Monitoring Team and OCFS representatives, including key staff members from the facility. The meeting provided an opportunity for introductions, informal discussion of institutional goals and objectives, an overview of the assessment process, a review and discussion of assessment instruments, and the scheduling of the remaining assessment activities. Those in attendance included: Brenda Aulbach; Deb Bacinelli; Sandra Carrk; Diane Deacon; Todd Etchison; Kathy Fitzgerald; Scot Lamphier; Amy Vent; and Edgardo Lopez.

4. On-Site Review

The site visit included a review of numerous documents available at the facility and not included in the pre-visit document request list. These documents included many reports that occurred in the time between the documents prepared for the Monitors and the on-site assessment.

5. Staff Interviews

The Monitors conducted 18 interviews with Finger Lakes staff. In addition to group meetings with staff, the MH Monitor interviewed seven staff. The PH Monitor conducted

interviews with one Facility Director, one Youth Division Aide (YDA), one Trainer, one Training Coordinator/ACA Coordinator, two (2) Assistant Directors for Programs, two (2) Youth Counselors (YC) 1, three (3) Youth Counselors 2, and three (3) nurses.

6. Resident Interviews

The Monitors interviewed 16 residents. The MH Monitor interviewed 5 residents individually and the PH Monitor interviewed 11 residents with an average age of 15.6 years old. Interviews occurred in areas with reasonable privacy from staff. The Monitors selected the youth for interviews.

7. Exit Interview

The exit meeting occurred on November 6, 2014. The Monitors expressed their appreciation for the cooperation and hospitality of the Finger Lakes and other OCFS staff. The Monitors then highlighted areas of importance and concern, but not findings. The exit meeting was a time for questions, clarifications, and explanations of events and impressions before the draft report goes to both Parties. Those in attendance included: Jason Allen, YC 1; Denise Arriaza, Associate Psychologist; Brenda Aulbach, Facility Director; Ronald Bardo, YDA III; Sarah Bargene, YC 2; Deb Bacinelli, Assistant Facility Director of Treatment; Sharon Bell, YC 1; Nicole Bowen, YCI; Alexa Cleveland, RN 2; Dan Comins, Facilities Manager; Dollbaby Cooper, YRS 2; Todd Etchison, Assistant Facility Director; Kathy Fitzgerald, Assistant Facility Director of Treatment; Cindy Furman, RN 2; Linda Gaydushek, Education Director; Adiel Gonzelez, Clinician; Greg Hall, YC 1; Kristen Keryk, Vocational Instructor; Scot Lamphier, Assistant Facility Director; Edgardo Lopez, Settlement Coordinator; Dan Manti, YC 1; Justin Mott, YDA III; Gary Pendergast-Clark, YDA III; Curtis Williams, YC 1; and on the phone; David Bach, Q/A Director; Lori Clark, Q/A Specialist; Matthew Carpenter, Executive Assistant to the Deputy Commissioner; Michael Cohen, Medical Director; Diane Deacon, Assistant Deputy Counsel; Larry Gravett, Director, SIU; Regina Jansen, DOJ Litigation Attorney; Carol McClellan, Director Labor Relations; Lee Prochera, Acting Deputy Commissioner and General Counsel; Amy Vent, Regional Coordinator MH; Jenne Utting, Q/A Specialist; John Wilson, ATT.

C. Preface to Protection from Harm and Mental Health Findings

In this site visit, the Intact Teams struggled with the uncertainty of impending personnel changes and the introduction of several youth associated with a greater number restraints. Home Office attributed the spike in restraints in October, 2014 to increased admissions and challenging youth being placed at Finger Lakes because of assaults in other programs: four residents, two of whom were new, accounted for 43% of October restraints. The increased admissions were described as an annual occurrence in October, yet no advance preparations appeared to have been made. Deeper analysis showed that the units with the highest number of restraints in September and October 2014 did not have the largest number of new residents.

The Monitors encountered conditions different than those described in the October 31 teleconference reviewing the findings of the October 2014 QAI Report. The changed conditions could be seen in the following:

- Graduated Response System (GRS) classified October uses of force as problematic or in the “red” zone. For example, when comparing August and October data, there had been a 92% increase in the number of unique use of force incidents and a 57% increase in the percentage of youth involved in a use of force.
- The results of the June 2014 administration of the Youth Counselor Civil Service exam, an event outside Home Office control, would alter the composition of stable Intact Teams at Finger Lakes when implemented on November 19, 2014.

The immediate concerns were what Finger Lakes planned to do about the anticipated harm to residents from what they perceived as a loss of important relationships and how to provide extra support to Intact Teams, YCs and clinicians to prevent destabilization.

II. PROTECTION FROM HARM MONITORING

Continuity in leadership provides stability, which was particularly important as Finger Lakes went through a staff scheduling upheaval with the closure of the Lansing Residential Center (LRC) and the hiring of new staff members. The FLRC leadership team had demonstrated good decision-making based on its understanding of program and treatment issues.

The Intact Teams and the new continuity in staffing led to productive stability and consistency at Finger Lakes, which contributed substantially to the June 2014 compliance findings. At the Juncture level, which includes Youth Counselors 1, Youth Counselors 2, plus Unit Coaches and clinicians, a strong group of unit leaders existed. Each individual brought different skills to the Intact Teams, and many of these skill sets were important in the development of the YDA staff members, especially the new hires. To a large extent, the June 2014 Juncture staff and the YDA staff teams had mitigated much of the destabilizing and stressful effects on staffing continuity and staffing adequacy from 2013.

The Monitors observed several substantial improvements following the November 2013 monitoring visit. First, enhanced organizational and social structures produced improvements in order, structure, and consistency among staff that had a positive impact on the social climate, which was more calm and relaxed with staff and youth commenting about a variety of reinforcers for appropriate behaviors. In the June 2014 site visit, youth and staff appeared more relaxed, and more people were smiling. Second, the Graduated Response System appeared to be working, and Finger Lakes plans for reducing restraints resulted in two consecutive months in the “green” zone. Third, the PH Monitor observed two Code Yellow situations where staff effectively de-escalated a youth and returned him to participation with his scheduled activity. These circumstances were not present at the same levels during the November 2014 monitoring visit.

A. Safety

One indicator of change was the reduction in youth perceptions of safety. The PH Monitor interviewed 10 FLRC youth who had been recently restrained. Another source of information was the Youth Interview. Beginning with the October 2012 monitoring visit, the PH Monitor asked Finger Lakes youth questions from the Performance-Based

Standards (PbS) Project's Youth Climate Survey regarding their perceptions of the climate¹ in the facility. All youth responded to the survey questions. Their responses are compared below to the responses from the June 2014 monitoring visit:

- One indicator of structure and consistency is the response to the question "Do you understand the facility rules?" In June 2014, 100% of youth said "yes," whereas 70% said "yes" in November 2014.
- Regarding safety, only 10% (1 youth) in June 2014 indicated that he had feared for his safety within the past six months at the facility, whereas 50% indicated that he had feared for his safety in November 2014.
- In response to the question "On a scale of 1 to 10 with 10 being the highest, how safe do you feel in this facility?" the June 2014 average response was 8.2, and the November 2014 average dropped to 7.1.
- Regarding relationships with staff, 80% of youth in June 2014 indicated that staff members show them respect, that staff members are good role models, and that staff members use force only when they really need to. In November 2014, responses of dropped to 40%, 40%, and 60%, respectively.
- Regarding uses of force, all interviewees in June and November 2014 had been restrained within the past six (6) months. Only 30% of youth in June 2014 thought that staff tried to hurt them during the restraint, but the perception that staff were trying to hurt them during a restraint increased to 70% in November 2014.
- Likewise, in response to the question if youth had ever made a complaint against a staff member as the result of a physical restraint, the rate jumped from 10% in June 2014 to 60% in November 2014

B. Paragraph 57

The present gateway to compliance determinations regarding use of force is Paragraph 57 and the Graduated Response System (GRS), a quality assurance mechanism that followed the Home Office/DOJ agreement about restraint numbers. A factor in compliance determinations, the GRS provides information that complements the QAI periodic on-site assessments of uses of force using the DOJ- and Monitor-approved QAI standards. Essential elements of GRS are identifying, tracking, and resolving use of force problems using action thresholds that correspond to three different color zones.

Home Office staff, in particular QAI and the Settlement Coordinator, did an excellent job of building a GRS prototype presented to the Monitors on August 2013. Home Office selected a color-coding system to reflect various quality assurance action indicators for use of force activities reflected by physical restraint rates and the percentage of youth involved in physical restraint events. Home Office established three-color coding system thresholds.

¹ Drs. Ken Dodge, Tom Dishion, and Jennifer Lansford edited a book of readings on the iatrogenic effects of congregate living conditions with incarcerated youth entitled, *Deviant peer influences in programs for youth: Problems and solutions* (2006). The book summarizes research on what the authors called "peer deviance contagion." The primary challenge in addressing this phenomenon is the absence of regular and systematic feedback from youth in the facility about safety and other conditions of confinement.

The GRS parallels the latest, best peer-reviewed statement of generally accepted professional standards for quality assurance as described in the recent joint publication of the National Institute of Corrections (NIC), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the National Partnership for Juvenile Services (NPJS). Dedel² describes quality assurance elements and strategies that include key concepts of performance-based assessments of policy and procedure using clear performance ratings, identifying underlying causes using data, changing the causes through measured outcomes, assessing effectiveness related to the measurement of the size and scope of change, and the construction of at least three levels of program quality. Her recommended three levels include first a level for exceptional, a middle level for satisfactory or in need of minor improvements, and a third level for in need for substantial or major improvements. The GRS green, yellow, and red levels are consistent with her recommendations.

In June 2014, Finger Lakes' GRS had demonstrated the capacity to achieve compliance with the Protection from Harm paragraphs in the Settlement Agreement and to provide an excellent mechanism at the facility and Home Office levels to monitor and alter variations in use of force activities. The Intact Teams (by more than their Red Flag meetings for their unit) had become an essential element in the use of the GRS, serving as a primary agent for problem-solving and stability regarding Protection from Harm and Mental Health programs in the living units.

Reducing the time between the discovery of a problem and its resolution also increased the likelihood of successful outcomes. Empowering the Intact Teams strengthened GRS, particularly with real time week-by-week data analysis for each Intact Team meeting so (a) the Intact Teams recognized when the unit was in the green and (b) the Intact Teams could immediately generate new interventions if the weekly data go into yellow. Looking at data from the previous month can be a delay for initiating a corrective intervention. The Intact Teams in June 2014 were sensitive to the individual youth variables (a new youth has arrived, a youth gets bad news, a conflict from the street emerges) and develop immediate strategies such as one-on-one, intensified mentoring, etc. to fit the youth. This aspect of GRS had largely disappeared during the November 2014 monitoring visit, and Monitors recommend a restoration and a renewed emphasis on Intact Team access to real-time restraint data.

Many variables exist in operating a multi-unit facility that may sometimes create temporary circumstances where uses of force move into a GRS "red" level. Because GRS yellow levels are associated with special activity and involvement by the Intact Teams and the facility and Home Office TICs, movement to a GRS "red" level signals the need for additional problem solving actions through the leadership of Home Office. Previously, this arrangement has demonstrated the ability to move a GRS "red" level back to yellow or green. Therefore, while a GRS "red" level reflects urgency for additional immediate Home Office and facility intervention, it does not, in and of itself, signify a loss of compliance.

² Dedel, K. (2014). Quality Assurance (Chapter 17). In *Desktop Guide to Quality Practice for Working with Youth in Confinement*. Lexington, KY: National Partnership for Juvenile Services and Office of Juvenile Justice and Delinquency Prevention. Download: <http://www.desktopguide.info/?q=node/5>.

Moving a GRS “red” level to yellow or green within 60 days would sustain compliance findings. The GRS “red” level 60-day parameter means no more than two consecutive a GRS “red” levels before moving to yellow or green. In the event of a “red” GRS level for more than 60 days, Home Office would be expected to explain the circumstances contributing to the “red” level for the Monitors’ consideration in making compliance determinations.

C. Use of Restraints

The Finger Lakes GRS level was “red” at the time of this monitoring visit, signifying a substantial concern. Expecting the Finger Lakes GRS to return to a “yellow” level within 60 days, the Monitors offered to extend the compliance determinations for 60 days while the Home Office TIC and the facility TIC addressed the youth and staff transition issues affecting the Intact Teams. The State rejected the offer on November 26, 2014 with an additional request that no further QAI review occur for FLRC. For this reason, several paragraphs have been classified as “Compliance Pending” under the assumption that the October and November GRS levels could be circumstantial, making a loss of compliance under these circumstances unfair. The intent will be to review thoroughly the GRS data from November 2014 through April 2015 at the next monitoring visit.

The “Red Flag” Restraint Review of FLRC restraint activities included a stratified, non-random sample of 15 Restraint Packets containing multiple problems, which provided an opportunity to evaluate the systemic responses to the correction and remediation of difficult circumstances. Attention was given to the reason for the restraint (Paragraph 41), the use of the IIP (Paragraph 41b), the use of CPM techniques (Paragraph 42b), the nature and extent of documentation (Paragraph 42c), the use of Documented Instruction as a teaching and coaching tool (Paragraph 42e), and the nature and extent of supervision of staff (Paragraph 44g).

Two questions remained as part of the assessment process. First, did the documentation describe a restraint event that was consistent with the policy, procedure, and practice required by the Settlement Agreement? Second, did the video affirm and corroborate the descriptions of the uses of force contained in the documentation? The 15 Finger Lakes Use of Force Packets provided to the PH Monitor contained the documentation surrounding the physical restraint, but the amount and quality of the necessary video had a few inadvertent difficulties due to the location and circumstances of the restraints that made determinations problematic.

Many of these factors along with other Protection from Harm indicators have direct positive relationships with primary use of force indicators, and the knowledge of these relationships has been part of the conventional juvenile corrections wisdom for some time. Additional data analysis revealed information that could be helpful to the Home Office and facility TICs in developing additional strategies to reduce uses of force. For example, direct relationships exist between several categories of OCFS data, meaning that additional alternative strategies may exist for reducing uses of force. By creating action plans that reduce other variables with a strong direct relationship to uses force, TIC action plans could be strengthened. There are powerful relationships between rate of physical restraints and several other important variables, such as the percentage of youth involved

