



PC-NM-001-035

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MAY - 2 1994

DWIGHT DURAN, et al.,

Plaintiffs,

vs.

Civ. No. 77-0721-JB

BRUCE KING, et al.,

Defendants.

Robert M. March
CLERK

ORDER

On March 18, 1994 the special master filed his Report on Mental Health Services. That special master's report incorporated a report (denominated Mental Health Services, New Mexico Department of Corrections, March 1994) prepared by two experts retained by the special master, Henry Dlugacz, CSW, JD, and Melissa Warren, Ph.D. The special master recommended that the Court confirm the factual findings of the experts' report and order the defendants to address promptly the six key topics noted in the conclusion to the report as requiring immediate attention. Those issues are the following: (1) screening and assessment at Reception & Diagnostic Center (RDC); (2) proper treatment of impaired inmates who are assigned to administrative segregation; (3) organization and strengthening of the Central Office; (4) improvement of recruitment and retention; (5) an acceptable plan for housing women who require intermediate care; and (6) improvement of the qualifications and training of staff to acceptable professional standards.

No party filed any objections to the report. The plaintiffs filed a response urging the Court to confirm the report. Plaintiffs pointed out that new mental health leadership in the Department of

Corrections already is using the findings and recommendations of the report to address deficiencies. Plaintiffs also noted that defendants' corrective action plan must be completed promptly and implemented expeditiously if defendants are to have any hope of achieving substantial compliance by the end of 1994.

Defendants also filed a response to the report. Although defendants specifically stated that they were not objecting to the report, they asserted that the report contains certain factual errors, and is an incomplete picture of the status of mental health care in the Department of Corrections. Accordingly, defendants urged the Court not to confirm the factual findings of the report. Defendants, however, noted their agreement with the experts and the special master that the six enumerated topics listed above require "immediate and sustained attention" (Defendants' Response, p. 4), and they assured the Court that these six areas of concern will be the focus of defendants' primary efforts in the area of mental health care during 1994.

Defendants pointed out in their response that the report does not cover all aspects of mental health care in the Department of Corrections. As the special master noted at page two of his covering report, the experts' report does not purport to address all aspects of mental health care delivery. The Court notes with approval and accepts as highly informative the December 23, 1993 memorandum on compliance in four areas of mental health care as required by the decree, which is attached to the defendants' response. The Court, however, does not view the fact that the

report does not cover all possible topics within the broad range of mental health care issues addressed by the decree as requiring the Court to refrain from confirming the report.

Defendants also state that the report's factual findings are deficient. With respect to the two specific examples defendants put forward for this proposition, however, the defendants' position can more accurately be characterized as disagreement with the degree of the problem discussed in the report, rather than denial of the problem's existence. In connection with concerns the experts expressed about mental health care delivery to segregated inmates housed at the PNM North facility, for example, defendants assert that, while problems exist, the report overstates them. Similarly with respect to the delivery of mental health care to women at NMWCF, defendants do not deny the existence of the specific deficiencies identified by the experts, but instead assert that despite those deficiencies, the majority of the women assigned to NMWCF who require mental health care are receiving it.

Like plaintiffs, defendants discuss in their response the new leadership in the Department of Corrections in the mental health area, and the fact that this new leadership is hard at work developing a corrective action plan that reflects the findings and recommendations of the report. The Court agrees with the parties that these are positive developments. The Court, however, also agrees with plaintiffs that it is imperative that defendants immediately complete the plan and begin its implementation.

The Court accepts the special master's observations and

recommendations concerning the report. The report appears to be thorough, thoughtful, and accurate. The Court understands and accepts that the report is not a comprehensive review of all aspects of mental health care in the Department of Corrections, but it is worthy of confirmation as to the areas it does cover. Although defendants have noted their disagreement with certain findings in the report, their reservations relate more to matters of degree than questions of fact.

Accordingly, the Court being fully advised in the premises and for good cause shown,

IT IS HEREBY ORDERED that the factual findings of the experts' report entitled Mental Health Services, New Mexico Department of Corrections, March 1994, prepared for the special master by Henry Dlugacz, CSW, JD, and Melissa Warren, Ph.D., shall be and hereby are confirmed.

IT IS FURTHER ORDERED that defendants shall address immediately the following six topics and provide sustained attention to them until they achieve substantial compliance in these areas: (1) screening and assessment at the RDC; (2) proper treatment of impaired inmates who are assigned to administrative segregation; (3) organization and strengthening of the Central Office; (4) improvement of recruitment and retention; (5) an acceptable plan for housing women who require intermediate care; and (6) improvement of the qualifications and training of staff to acceptable professional standards.

IT IS FURTHER ORDERED that defendants immediately shall

promulgate a corrective action plan in connection with the deficiencies noted in the report, and all other aspects of mental health care required to be addressed by the decree in this case, and shall provide plaintiffs' counsel and the special master with a copy of that plan. That plan shall provide for defendants to achieve substantial compliance with this Court's decree on mental health no later than December 31, 1994.



Juan G. Burciaga
Chief Judge