

INTRODUCTION

This document is the third progress report on the defendants' state of compliance with the Stipulated Settlement Agreement approved by the Court on April 20, 1984¹. The First Progress report submitted on July 25, 1984, dealt with the progress made during the period of April 20, 1984, through July 20, 1984². The Second Progress report submitted on April 30, 1985, dealt with the progress made during the period of July 20, 1984, through April 30, 1985³. The report that follows is intended to apprise the Court of the defendants' state of compliance with all orders issued in the case to date, and specifically covers the period May 1, 1985, through September 30, 1985.

The Agreement, as approved by the Court, was to continue for eighteen months, and would normally conclude on October 20, 1985. During this period the Court has retained continuous jurisdiction for the purpose of effectuating and enforcing the provisions of the Settlement Agreement. There are provisions in the Agreement for extending the jurisdiction of the Court. The Auditor has also been given the authority, sua sponte, to extend the period of this Agreement for an additional twelve months to allow for compliance.

For additional background information regarding the subject matter of this settlement the reader is encouraged to review the first two Progress Reports, and refer to the specific wording of the Stipulated Settlement Agreement. (Appendix A).

The Auditor has conducted on-site inspections of all prisons in Nevada during the period covered by this report; interviewed staff and inmates; reviewed mental health issues with consultants representing the fields of psychology and psychiatry; and maintained contact with counsels representing parties. Records were reviewed, case and medical files audited, and observation of programs and procedures was carried out.

Since there was no objection to the methodology utilized in the earlier Progress Reports, the Auditor will use the following benchmarks in determining compliance with this Stipulated Settlement Agreement:

1. American Correctional Association Standards on medical/psychiatric care as contained in the document entitled "Standards for Adult Correctional Institutions, 2nd ed., January, 1981"⁴.

2. Instructions from the Court as contained in its Order dated April 20, 1984, which includes the following language:

- (a) "In all cases, prison officials are obligated to choose the least intrusive, yet sufficient, means when selecting the form of treatment to be administered the inmate; and
- (b) Prison officials shall provide a level of treatment which shall be sufficient for an inmate to maximize his or her potential for living in the general population in the prison and ultimately for living in the community when released from prison; and
- (c) For involuntary transfer of inmates to mental health facilities outside the prison system, the standards set forth in Vitek v. Jones, 445 U.S.485, 100 S.Ct.1254, 63 L.Ed. 2d 552 (1980)."⁵

Each area addressed by the Settlement Agreement is the subject of a separate section in this report. Each section begins with a brief synopsis of the Agreement (for those readers requiring the full text see Appendix A), followed by a general discussion of compliance efforts that have occurred during the past five months, and findings regarding the current status of compliance. Finally, a general summary of the Auditor's view of the state of compliance at this time concludes this report.

AMENDMENTS TO STIPULATED AGREEMENT

The Court, at its hearing on April 20, 1984, required parties to file amendments to the Stipulated Settlement Agreement which would be responsive to concerns in the following areas:

- "1. A provision for the training of administration and staff in the contents of the Taylor Settlement Agreement.
2. A provision for the periodic review of the necessity to continue the confinement of inmates in the mental health unit (Special Programs Unit) of the Nevada State Prison.
3. A more comprehensive application of the procedural safeguards which apply to the use of restraints in order to include all inmates, whether or not they are already receiving mental health treatment or care.
4. An explicit and comprehensive set of guidelines describing the manner in which suicide watches are to be conducted."⁶

On August 1, 1984, parties agreed to amendments to the Stipulated Settlement Agreement which are set out fully in Appendix B.

Discussion

I Training of Staff of the Nevada Department of Prisons Regarding the Contents of the Stipulated Agreement.

A. The defendants agreed that provisions of the Stipulated Settlement Agreement and regulations enacted thereunder would be read aloud at the Nevada Department of Prisons three times; and the individual responsible for reading, in its entirety, the Agreement to staff, would certify that he or she had done so in writing to the Director.⁷

The Auditor, as reported in the Second Progress Report, reviewed all certifications made to the Director and found that all shifts at all institutions had the Agreement and regulations read to them on three separate occasions.

B. The defendants agreed that the Settlement Agreement and regulations enacted thereunder would become a part of the In-Service Training program of the Nevada Department of Prisons.⁸

It was found that the Departmental Mental Health Coordinator, Dr. Mace Knapp, Ph.D., in cooperation with the Departmental Training

Manager, Robert Bayer, instituted a program beginning in October, 1984, which incorporates a module into the orientation and training of new staff. This module includes all aspects of the Stipulated Settlement Agreement and a section on mentally ill inmates. The lesson plans for this training were reviewed and adequately cover the necessary subject area. On the basis of In-Service training records it would appear that training of staff has occurred at all northern institutions, but has not been incorporated into the training in the southern institutions.

C. The defendants agreed to enact a regulation regarding recognition of mental illness in inmates and appropriate referral for evaluation and placement.⁹

Administration Regulation #646, entitled, "Psychological Assessment" was developed and issued which covers this requirement. (Appendix C). Appropriate institutional procedures have been issued by all institutions.

D. The defendants agreed that correctional officers and counselors assigned to the Special Programs Unit would receive additional training in the (a) contents of the Stipulated Agreement, (b) recognition of mental illness, and (c) appropriate response to mental health issues. The defendants further agreed to incorporate the amendments to the Stipulated Settlement Agreement into their appropriate administrative regulations.¹⁰

It was found that the defendants have incorporated all of the elements found in the amendments into their existing Administrative Regulations. All of the policy issues incorporated in these Administrative Regulations have also been included in Institution Procedures. There has been no additional training for staff assigned to the Special Program Unit although this was a specific requirement of the amendment.

Findings Regarding Compliance

The defendants are in compliance with the training requirements set forth in the amendments to the Stipulated Settlement Agreement with the following exceptions:

⁹In-Service Training regarding requirements of the Agreement

and information on mentally disordered inmates has not been incorporated into the In-Service Training programs at southern institutions.

° Correctional officers and counselors assigned to the Special Programs Unit have not received additonal training in the contents of the Stipulated Settlement Agreement, recognition of mental illness, explanation of the various forms of mental illness which might be encountered in a prison setting, and the appropriate response to mental health related emergency situations.

Discussion

II Transfer Out of the Special Programs Unit at the Northern Nevada Correctional Center, Carson City, Nevada.

The defendants agreed to issue regulations which would provide criteria, procedures, and guidance to staff regarding the transfer of inmates out of the Special Programs Unit.¹¹

Administrative Regulation #657, entitled, "Transfer Out of Special Programs Unit", was developed and issued to staff which totally covers the requirements of this Admendment (Appendix D). The Administrative Regulation is being followed in so far as transfer of voluntary patients out of Special Programs Unit is concerned. Involuntary confinement of patients does not follow the regulation in that the medical records do not include that:

1. a thirty day review as to the necessity of placement in the Special Programs Unit was held,
2. an Interdisciplinary Treatment Team/Classification Committee chaired by the Mental Health Coordinator ever reviewed the cases, and
3. correctional officers, counselors and all staff assigned to the Special Programs Unit were given additional training in the following areas:

(a) requirements of the Taylor vs. Wolff Stipulated Settlement Agreement.

(b) recognition of mental illness, mental retardation and suicidal ideation.

(c) the appropriate response to mental health related emergency situations, including symptoms of mental health emergencies.

Findings Regarding Compliance

The defendants have issued the necessary policy statements, but are not in total compliance with their policies.

Discussion

III Amendment to Appendix VI, Use of Restraints, of the Stipulated Settlement Agreement

The defendants agreed to modify their Administrative Regulation #655 on the "Use of Restraints" as follows:

"3. Where an inmate is violent, suicidal, or poses an imminent threat to himself or the safety of others, i.e., an emergency situation exists, he or she may be restrained by Nevada Department of Prisons staff."¹²

The defendants further modified Administrative Regulation #655, Section V,B,3, on October 25, 1984, by adding the following statement:

"Except momentarily, in emergency situations, no inmate in Nevada Department of Prisons shall be restrained to fixed objects (beds, cell doors, grill doors, etc.) unless the provisions of this regulation are complied with. Such restraint is only at the direction of the psychologist or physician. Inmates who are restrained pursuant to this regulation may be restrained to the top of the bed."¹³

A revised Administrative Regulation #655, entitled, "Restraint of Inmates to Fixed Objects and Use of Restraints for Mental Health Reasons", was issued to staff on July 24, 1985, which clearly addresses all requirements of this amendment (Appendix E). Institution procedures have been developed which address these changes.

The use of restraints was carefully reviewed and it would

appear that all institutions are now abiding with Departmental policy. A report on the use of force is now required, and Wardens are closely monitoring actions taken by staff. Mental health personnel are being contacted before use of restraints extends beyond the four hour period and continued use of restraints is now clearly a decision of a professional clinically oriented staff member. It should be further noted that the use of restraints has been dramatically reduced during the reporting period.

Findings Regarding Compliance

The defendants are in compliance with this revised amendment.

Discussion

IV Amendment of Appendix VII, Seclusion or Isolation For Mental Health Reasons, of Stipulated Settlement Agreement.

The defendants agreed to modify Paragraph 4 of Appendix VII of the Stipulated Agreement to include detailed procedures regarding the seclusion and isolation of patients for mental health reasons, and clearly stated protocol to be followed to prevent suicides.¹⁴

The Department of Prisons issued Administrative Regulation #645, which clearly addresses policy and procedures regarding the use of seclusion for mental health reasons. The regulation also covers various approaches that may be followed in working with a potential suicidal inmate, and requires that mental health staff shall develop protocols for response to suicides and their prevention. (Appendix F).

Findings Regarding Compliance

On the basis of a file review it would appear that the defendants are closely following their policy and procedures re-

Additionally, a checklist has been developed to be used in the decision making process regarding suicide prevention and more detailed protocols are in the process of being finalized by the departmental Mental Health Coordinator.