

REPORT OF THE INDEPENDENT REVIEWER  
ON COMPLIANCE  
WITH THE  
SETTLEMENT AGREEMENT  
UNITED STATES v. COMMONWEALTH OF VIRGINIA

United States District Court for  
Eastern District of Virginia

Civil Action No. 3:12 CV 059

September 30, 2016 – March 31, 2017

Respectfully Submitted By

A handwritten signature in blue ink, appearing to read "Donald J. Fletcher".

Donald J. Fletcher  
Independent Reviewer  
August 1, 2017

This is the Independent Reviewer's tenth Report on the status of compliance with the Settlement Agreement (Agreement) between the Parties to the Agreement: the Commonwealth of Virginia (the Commonwealth) and the United States, represented by the Department of Justice (DOJ). This Report provides an update on the Independent Reviewer's monitoring activities during the tenth review period and plans for the eleventh period.

Due to the Independent Reviewer's need to attend to his family health concerns, and after consulting with the Parties and the Court, the Independent Reviewer modified plans for monitoring and reporting to the Court for the tenth review period. The most substantive modification was to reschedule, until after the eleventh review period, the Independent Reviewer's next determinations of whether the Commonwealth is in compliance with the provisions of the Agreement.

The Independent Reviewer maintained important aspects of his monitoring methods that he utilized during previous review periods. The Independent Reviewer prioritized and selected the specific provisions of the Agreement that would be studied by independent consultants. The Independent Reviewer again retained the same consultants who had previously studied the Commonwealth's efforts and progress related to these selected provisions. He also planned the scope of each planned study, and the process for information gathering, data verification and analysis. As in previous periods, the consultant's studies included review of whether, and to what extent, the Commonwealth had considered and implemented the recommendations that the Independent Reviewer included in his previous Reports to the Court.

The Independent Reviewer modified the span and the process of the planned studies. Each was designed as a yearlong study that would be conducted in two phases. The first phase of each study was conducted during the tenth period; the second phase will be completed during the eleventh review period. The consultants' reports of the first phases of the studies included *Findings* only. After conducting the second phases, the consultants will report on the findings from both phases and the conclusions from their analysis regarding the status of the Commonwealth's compliance. The consultants' reports of these yearlong studies will be included in the Appendix of the Independent Reviewer's next Report to the Court, on December 13, 2017.

For the tenth and eleventh review periods, the Independent Reviewer prioritized monitoring the status of the Commonwealth's compliance with the requirements of the Agreement in the following areas: Case Management; Integrated Day Activities and Supported Employment; Licensing and Investigations; Independent Housing; Quality/Provider Training; Crisis Services for Children and Adults; Regional Support Teams; Mortality Review, and an Individual Services Review study of individuals with complex medical and behavioral needs.

During the tenth review period, as with studies during previous periods, the Independent Reviewer requested that the Commonwealth provide all records documenting that it had properly implemented the related requirements of the Agreement. The consultants reviewed information provided by the Commonwealth and gathered information from other sources as well. These include the service records of individuals, case managers' notes, on-site observations, focus groups, and interviews with individuals, families, caregivers, service providers, and state officials. If there was additional information that was not provided by the Commonwealth, it was not considered in the consultants' reports.

The consultants' "Findings" reports from the first phase studies have been provided to the Parties. To ensure its understanding of the reports, the Commonwealth also completed separate exit interviews with each of the consultants. The second phases of each of these studies will be completed during the eleventh review period. As noted earlier, the consultant's reports from the tenth period include findings only and do not include determinations of compliance. The first and second phase reports will be included in the Appendices of the Independent Reviewer's Report to the Court in December 2017.

The Commonwealth's staff and all stakeholders continued during the tenth review period, to be accessible, forthright and responsive. The attorneys from the Department of Justice and the Commonwealth successfully negotiated outcomes and timelines for achieving the some provisions of the Agreement, and continue to negotiate others. Overall, the willingness of both Parties to openly and regularly discuss implementation issues, as well as the involvement and contributions of other stakeholders, has been important to making progress towards shared goals. The Independent Reviewer greatly appreciates the assistance from individuals at the center of this Agreement and their families, case managers and service providers. He also is forever grateful for the support of the Parties and the Court, which allowed him to attend to his family's needs during an extended and difficult period.