

Disability Law Center, Inc. vs Massachusetts Department of Correction, et al.
Civil Action No. 07-10463 (MLW)

Third Report of Designated Expert Kathryn A. Burns, MD, MPH

Dates of Site Visit: October 7-8, 2013

Date of Report: December 3, 2013

Sites visited:

MCI-Cedar Junction (MCI-CJ)

- Departmental Disciplinary Unit (DDU)
- Special Management Unit – 10 Block, segregation
- Behavioral Management Unit (BMU)

Souza Baranowski Correctional Center (SBCC)

- Special Management Unit
- Secure Treatment Program (STP)

Additional Information reviewed:

- Data submission required in Settlement Agreement
- Updated Behavior Management Unit Inmate Handbook Revised 9.1.2013
- Secure Treatment Unit Outcomes Report dated October 5, 2013
- A Corrective Action Plan addressing data reliability and accuracy in STP (October 3, 2013)
- Continuous Quality Improvement Study: NOS Diagnoses

MCI-Cedar Junction

MCI-Cedar Junction was toured on October 7, 2013. Interviews with individual inmates were conducted with prisoners housed in the DDU (5) and SMU (4). The most recent information in the medical records was reviewed for the inmates interviewed. In addition, a group of three inmates was interviewed in BMU.

An inmate with metastatic lung cancer (metastases to brain) was recently placed into DDU. A recommendation was made that a case conference be convened to discuss his medical, mental health and security needs in order to consider a potentially more appropriate placement.

The four inmates interviewed in SMU were selected from the roster because they were identified as being prescribed antipsychotic medication, which is one indication of possible SMI. However, none of the four were given the SMI designation. Other indicators of SMI were also present such as prior diagnoses of Bipolar disorder (an SMI by definition), family history of Bipolar disorder, history of state psychiatric hospitalization, history of civilian treatment and receipt of SSI in the community due to psychiatric disability. Not all indicators were present in each case, but all of cases had some indications of SMI and required a more comprehensive and accurate diagnostic assessment. Although the sample size was limited, the findings are troubling in that the SMI designation has direct bearing on inmates' time in segregation, access to residential mental health care and intensified mental health services while in segregation.

Notably, the inmate previously maintained in the SMU for >440 days awaiting an out-of-state placement was transferred out of state since the last site visit.

BMU inmates reported satisfaction that some long planned changes to the incentive system were coming into fruition. The Inmate Handbook was updated and revised September 1, 2013.

Souza Baranowski Correctional Center (SBCC)

SBCC was visited on October 8, 2013. Group interviews were conducted with inmates in the STP (5 inmates) and individual interviews were conducted with five SMU inmates. The most recent information in the medical records of the SMU inmates was reviewed.

By and large, STP inmates reported satisfaction with the program and reported that it had helped them very much. (Only one expressed overall dissatisfaction.)

Diagnoses recorded for the five inmates interviewed in the SMU were problematic (e.g., NOS or adjustment disorders) and not always consistent with medications prescribed. However, at SBCC, this did not appear to negatively impact the inmates' classification as SMI. In other words, in spite of the current diagnoses provided, inmates were designated SMI on the basis of the other types of indicators mentioned previously and therefore, they were also receiving an enhanced level of mental health care while in SMU in accordance with the terms of the Settlement Agreement.

Assessment: The Department's documentation demonstrates compliance with the terms of the Settlement Agreement with respect to screening; providing out-of-cell treatment opportunities to inmates, both individual and group activities; and providing supplemental mental health services for inmates confined to segregation. However, problems with diagnostic accuracy/specificity persist and can impact the designation as SMI and therefore eligible for STP or BMU placement and/or additional mental health services when confined to segregation. On the basis of the limited sample size reviewed, the issue of failure to designate as SMI appeared much more problematic at MCI-CJ than at SBCC.

Recommendations were offered on site during the exit interview and have been summarized in this document. A synopsis of the inmate interviews is attached.

Inmates Seen By Dr. Burns
October 2013

Prison	House	L Name	F Name	DOC#	
MCI-CJ	DDU	██████	██████	██████	Reports multiple past providers have diagnosed him with Bipolar Disorder but diagnosis MDOC is "Mood Disorder NOS." He is prescribed mood stabilizing and antidepressant medications (two of them.) It is not clear whether past records and history have been considered in arriving at the NOS diagnosis. He appears to be being treated for bipolar disorder but not given that diagnosis which carries an SMI designation.
MCI-CJ	DDU	██████	██████	██████	Seen previously; suggest diagnostic clarification but remains "Depressive Disorder NOS, Anxiety Disorder NOS." Quite possibly SMI. Again, suggest careful diagnostic assessment.
MCI-CJ	DDU	██████	██████	██████	Condition essentially unchanged; continues to receive Thorazine, Trazodone and Remeron for diagnosis of Primary Insomnia & Dysthymic Disorder.
MCI-CJ	DDU	██████	██████	██████	Metastatic non-small cell carcinoma of lung; brain metastases. Case is terminal, chemo palliative only. Behavior likely influenced by the tumors in his brain; purpose and utility of DDU sanction unclear. (The security cost burden to transport for weekly or every other week chemotherapy must also be quite large.) Suggested MH, medical and security case conference to discuss case and more appropriate placement of this terminally ill inmate who will require increasing level of medical care and supports.
MCI-CJ	DDU	██████	██████	██████	Reports he will be released from prison in a short while. He is concerned about release to the street without any supports, thinks he may just go to a psych hospital and ask to be admitted. Says he was offered opportunity to go to STP or BMU but declined. Brief chart review indicates his diagnosis has changed from some sort of mood disorder to no Axis I disorder although he continues to receive medications. Possibly SMI given history of functional impairment, self-injurious behaviors.
MCI-CJ	SMU	██████	██████	██████	Diagnosis listed as Mood Disorder NOS but prescribed Zyprexa and two antidepressants. History of state psychiatric hospitalization and SSI on streets. He is SMI and should be appropriately evaluated and classified.
MCI-CJ	SMU	██████	██████	██████	Diagnosis Mood Disorder NOS but meds are not consistent with this diagnosis; Risperdal prescribed. Has family history of bipolar disorder. Requires more thorough diagnostic assessment and possible reclassification as SMI.
MCI-CJ	SMU	██████	██████	██████	Treated for Bipolar previously in MDOC; also on streets and in jail prescribed Zyprexa. Has been back for about a week and just received medication night prior to site visit. He has not yet had his full MH evaluation and should be classified as SMI.
MCI-CJ	SMU	██████	██████	██████	Reported diagnosis is Polysubstance Abuse in full remission but is prescribed antipsychotic medication. He is SMI and should be appropriately diagnosed.
MCI-CJ	BMU	██████	██████	██████	Interviewed in group setting; appeared calm and stable.
MCI-CJ	BMU	██████	██████	██████	Interviewed in group setting. Much improved since last time seen during site visit.
MCI-CJ	BMU	██████	██████	██████	Interviewed in group setting; better group participation and behavior than last tour.
SBCC	STP	██████	██████	██████	Seen with two other inmates in group; doing well. Has attained max privilege level and has work assignment, able to rec at institutional gym. Could be considered for graduation eligibility if program had such a provision.
SBCC	STP	██████	██████	██████	Seen with two other inmates in group; appears stable.
SBCC	STP	██████	██████	██████	Seen with two other inmates in group; doing well; depression appears improved and stable.

Inmates Seen By Dr. Burns
October 2013

SBCC	STP	██████	██████	██████	Seen with another inmate in STP group setting. Multiple complaints - consistent with prior presentations. He is identified as SMI and STP is an appropriate placement for him.
SBCC	STP	██████	██████	██████	Seen with another inmate in therapeutic module group room; reports STP has been very helpful to him. He wraps up in another week and will be released from prison.
SBCC	SMU	██████	██████	██████	Diagnoses (Anxiety Disorder NOS and Antisocial Personality Disorder) are not consistent with his prescribed medications: Trilafon, Remeron and Trazodone. Previously in MDOC, diagnosed with schizoaffective disorder. Has been treated in RTU in past; did not do well during prior DDU stay and is concerned about returning there. Clinical presentation consistent with former diagnosis and SMI classification. Staff concern that he is exaggerating symptoms is understood but should not preclude his exclusion from DDU placement given likely SMI.
SBCC	SMU	██████	██████	██████	Diagnoses are Polysubstance Dependence; Adjustment Disorder; Antisocial Personality Disorder and Borderline Personality Disorder. He is identified as SMI and prescribed Wellbutrin and Seroquel. His classification was increased to MH4 the week prior to the site visit and he has been offered RTU placement but refuses due to concern for his safety from rival gang members. Referral/placement at higher level of care is appropriate clinically.
SBCC	SMU	████	██████	██████	Seen in individual interview. Reports history of treatment for depression and anxiety since childhood, hospitalized twice in early 20's; currently 31. DDU placement has been cleared. Not SMI.
SBCC	SMU	██████	██████	██████	Listed as Adjustment Disorder with Mixed Anxiety and Depressed Mood, Personality Disorder NOS and prescribed Prozac and Vistaril. He is identified as SMI. Interview presentation consistent with SMI also. Has not been referred for higher level of care by clinician, but probably should be given his SMI and current condition.
SBCC	SMU	██████	██████	██████	Diagnoses are Adjustment Disorder with Mixed Disturbance of Emotions and Conduct, Major Depressive Disorder, single episode in remission; Antisocial Personality Disorder but he is identified as SMI. He was being staffed for potential STP placement at the time of the site visit.