

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION**

ASHOOR RASHO, et al.,	)	
	)	
Plaintiffs,	)	No. 1:07-CV-1298-MMM-JEH
	)	
v.	)	Judge Michael M. Mihm
	)	
DIRECTOR JOHN R. BALDWIN, et al.,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFFS’ RESPONSE TO DEFENDANTS’ JULY QUARTERLY REPORT  
ON COMPLIANCE WITH THE COURT’S ORDER**

On July 23, 2019, Defendants submitted their second required quarterly report regarding compliance with this Court’s injunctive relief order.

The compliance picture is dismal. The Court’s Order required 182 new Full Time Equivalent (FTE) clinical mental health staff, but since August 2018 the system has added only 13.4. It should be obvious that the even more significant hiring required by IDOC’s own July 2018 Staffing Plan and its latest April 2019 Staffing Plan of 515.85 FTEs, have not been reached. Staffing is stalled in the 350 FTE range. More than half of IDOC facilities are missing a quarter or more of the staff needed to provide care. Unfortunately, the Court’s Order to increase staffing levels has not achieved that result any more than did the IDOC’s own solemn commitments.

This summary chart shows the numbers required by the Court Order compared to those reported as filled in Defendants’ Attachment 1, July 22, 2019 WHS Staffing Plan Update.<sup>1</sup>

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<sup>1</sup> The numbers used here for the filled WHS staff, taken from the July 22, 2019 WHS report (Quarterly Report Attachment 1) are slightly higher than the numbers contained on the WHS June 30,

	Site MH Service Dir.	MH Unit Director	Staff Psychologist	QMHP	BHT	RN-MH	Staff Assistant	Psychiatrist	DON Psych Nurse	Rec. Therapist
Court Order	7	12	16	142.5	102	54.5	24	85.5	1	5
Filled WHS FTEs as of Aug. 2018	7	4	13.03	115	64	20	54	49.86	2	5
Filled WHS FTEs as of July 22, 2019	7	4	12.325	105	82	24.5	53	54.438	2	3

Once again the Defendants point to the pipeline of newly hired (but not started) staff to fulfill their obligations, but this last year demonstrates yet again that the pipeline fails to fill the bucket. If the new hires in the pipeline could be relied upon, the 2014 staffing plan would have been surpassed years ago. The increase in filled positions of only 13.4 demonstrates that not all of these individuals actually go to work in our facilities and many other staff continue to leave the system. The holes in the bucket have not been filled, and the system continues to lose as many, or more, than it hires.

Defendants' report also does not give an accurate picture of the vacancies on a facility level. Six of the ten facilities that Defendants say have no clinical vacancies, do in

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2019 Report (Attachment 5) used in Defendants' summary chart in the Quarterly Report, at a total of 347.26 FTEs. The specific numbers of filled positions tend to go up and down from month to month. The July 22, 2019 report shows slightly more BHTs, nurses, and recreational therapists, but losses of Clinical Psychologists, a Unit Director, Psychiatric Providers, and a QMHP from the June 30, 2019 Report.

Defendants also rely upon IDOC clinical staff, summarized in Attachment 2, to increase their staffing numbers. Plaintiffs focus here on the WHS staffing, as was the focus at trial, and because Plaintiffs are not clear on the nature and function of these state employees. At least some of these state positions are in administrative positions and, to Plaintiffs' knowledge, do not regularly provide direct patient care as part of their job function.

fact have vacancies.<sup>2</sup> Defendants say ten other facilities have one or fewer vacancies, but that is only true for three of those facilities.<sup>3</sup> Even the vacancies at those three facilities are important impediments to care. While “only” one vacancy at Decatur may appear insignificant on paper, it leaves only 3.2 clinical staff available for a mental health caseload of 508 women. Jacksonville is allocated 3.75 budgeted positions for its caseload of 209, so a vacancy of .45 psychiatrists is quite meaningful. Even the 0.125 vacancies at Kewaunee, means 50% of that facility’s budgeted mental health positions are vacant. Behind each of these vacancies, no matter how “small” on paper, are many Class Members who are not receiving care they need.

Listed below are all of the facilities with their actual number of vacant budgeted positions. Those without any vacancies are highlighted in blue. Those with more than a quarter of the budgeted positions vacant are highlighted in red.

Facility:	Number of Vacancies	Total # of MH Staff
Big Muddy River	4	10.5
Centralia	3	7
Danville	2.75	9
Decatur	1	4.2
Dixon	26.5	42.5
East Moline	0	3.75
Elgin	6	21
Graham	2.3	11
Hill	1	12
Illinois River	4	12.25
Jacksonville	0.45	3.75
JTC	15.15	65
Kewaunee	.175	.3
Lawrence	3.25	18.5
Lincoln	1	3.5
Logan	33.26	77
Menard	17.5	35
Murphysboro	0	2.25
Pinckneyville	6.98	22.5

<sup>2</sup> Centralia, Elgin, Hill, Lincoln, Stateville NRC and Vienna. (See Attach. 1 to Quarterly Report.)

<sup>3</sup> Decatur, Jacksonville and Kewaunee. (See Attach. 1 to Quarterly Report.)

Pontiac	23.7	46
Robinson	1.5	5
Shawnee	3.7	10.425
Sheridan	0	7.25
Southwestern	.2	2.45
Stateville	8.450	27
Stateville NRC	2	18
Taylorville	1.5	5
Vandalia	0	5
Vienna	2	4.5
Western	4.2	10.7

For Dixon, Menard and Pontiac – each of which houses large populations of SMI Class Members – the vacancies are **50%** or more of their budgeted mental health staff that IDOC has contracted for with Wexford.

The Monitor's July 22, 2019, Report on Compliance with the Injunctive Orders, finds that the Defendants have failed to implement the Court's order in each of the five substantive areas, as well as in staffing. (ECF No. 2715.)

Substantial backlogs persist in the three areas reported by IDOC. As of July 5, 2019, mental health evaluations were backlogged by 440 appointments, treatment planning by 557, and psychiatric appointments by 667. By way of comparison, as of the permanent injunction trial, Defendants showed backlogs of 194 in mental health evaluations, 682 in treatment planning, and 809 in psychiatry. (DX-1D, 8/17/18.)

Defendants' own quality assurance audit (Quarterly Report, Attachment 4), posits 85% as full compliance. Plaintiffs reject that notion. Failing to deliver care to 15% of the mental health caseload – nearly two thousand people – is simply unacceptable. Plaintiffs' counsel continue to meet and correspond with Class Members, as well as tour facilities. Most recently, Plaintiffs' counsel toured Logan's mental health units (July 10<sup>th</sup>),

Pontiac's South Mental Health Unit (July 16<sup>th</sup>), and Dixon's X-House (August 14<sup>th</sup>) speaking with Class Members in those units about the care they are receiving.

Unfortunately, as in Plaintiffs' May 15, 2019 status report (EFC No. 2647), these visits continue to confirm that little progress is being made in the actual delivery of much needed care. Class Members are suffering from the impact of the staffing vacancies and frequent turnover of clinical staff. They receive far too little mental health treatment: virtually no one receives any one-on-one therapy. Instead, groups – which are not useful or appropriate for all patients – are the sole vehicle for any sort of therapy. What treatment is provided is often poor in quality; many of the groups are non-substantive and psychiatry continues to be plagued with serious medication mismanagement.

Our observations lead us to believe that the Court's directives for mental health care in crisis and segregation, medication management, treatment planning and evaluations are not being followed. The only bright spot is that Plaintiffs have observed increases in structured out-of-cell time for Class Members in segregation for more than 60 days. Although why Defendants continue to keep mentally ill prisoners in segregation for such an extended period remains a mystery given the uncontested evidence that such long term segregation is harmful.

At Pontiac, however, security staff are interfering with the provision of out-of-cell time in numerous ways, including by limiting the number Class Members who can attend groups thereby making it impossible to provide adequate out-of-cell time, since there are not enough staff to run additional groups.

At both Pontiac and Dixon, we encountered many Class Members who appeared to be deteriorating or exhibiting symptoms of mental illness, including a number of

individuals with open wounds from recent self-harm (even while on watch). Despite their deterioration, these Class Members were not being provided with any additional care and out-of-cell time.

Although the Treatment Plan forms appear to be updated more often than previously, they remain largely generic and ineffective. Class Members most frequently report that their treatment plans are not helpful because they are either not individualized or are simply not followed. At Dixon's X-House, Class Members consistently report that they only see their Treatment Plan when the QMHPs present them at cell-front for signature. Those on crisis watch are told they have to sign the plan in order to get off of crisis.

Alarming, Logan, Pontiac and Dixon continue to ignore the permanent injunction and only provide people on crisis watch with one daily session with a QMHP and a psychiatric referral. On weekends, those sessions are still only a brief, cell-front check. Many prisoners on crisis watches are suffering and are often on crisis watch for weeks at time, yet they receive no treatment other than the brief daily sessions, which are not consistent with the Court's Order. At Dixon's X-House, on August 14, 2019, multiple class members who have been on crisis watch for weeks reported that when they ask to speak to the counselor (outside of their daily 15 minute session), they are denied because they "are already on watch." Apparently, no treatment beyond the watch placement itself is available, even in the face of further deterioration while on watch.

In addition to lack of treatment for people on crisis watch, at Logan we observed several women who were placed on watch because of their request for medication, but without a co-occurring severe mental decompensation. This is a direct violation of the

express terms of Sect. 2(a) of Court's Order, limiting the use of crisis watch to when no other less restrictive treatment options exist.

At both Pontiac and Dixon, we found multiple Class Members who were on crisis watches either continuously for many months, or on-and-off again for the better part of the last year, and were not moved to a higher level of care. They also were not receiving the more aggressive treatment required for anyone on a short term crisis watch under Section's 2(b)(d) and (g) of this Court's Order.

**Staffing Plans:**

In addition to meeting the 2014 staffing levels, the Court Order, Sect. 1(c), required Defendants to submit a new staffing plan. Defendants submitted their new staffing plan in April, which gives a significant increase in clinical staff hours overall. (Quarterly Report, at 2 and Attach. 2 at 64-65.) That plan decreases the number of required psychiatrists, while increasing other clinical providers such as psychologists and QMHPs.

On April 24, 2019, the Monitoring team submitted a facility-by-facility staffing analysis recommending additional staff. On May 14, 2019, Plaintiffs provided Defendants and the Monitor with their position and objections to parts of IDOC's 2019 Staffing Plan based on review of the plan together with the Monitor's recommendations and all available facility data. A copy of Plaintiff's response to the proposed staffing plan is attached as Exhibit A.

Section 1(b) gave Defendants 180 days to submit a report as to whether their staffing is sufficient. Section 1(d) of the Court's Order states that, after the report, the

Court will consider whether any modification to the Defendants' staffing is necessary, which Plaintiffs believe will necessitate a hearing.

RESPECTFULLY SUBMITTED,

*/s/ Harold C. Hirshman*

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