March 23, 2021

Dr. Li-Wen Lee  
Associate Commissioner  
Division of Forensic Services  
NYS Office of Mental Health  
44 Holland Avenue  
Albany, NY 12229

Anthony J. Annucci  
Acting Commissioner  
NYS Department of Corrections  
And Community Supervision  
The Harriman State Campus-Building 2  
1220 Washington Avenue  
Albany, NY 12226-2050

Re: Justice Center Oversight Action

Dear Dr. Lee and Acting Commissioner Annucci:

The Justice Center for the Protection of People with Special Needs (the Justice Center) is required to oversee compliance with the Special Housing Unit (SHU) Exclusion Law and monitor the quality of corrections-based mental health care for inmate/patients (Chapter 1 of the Laws of 2008). To meet this mandate, we are conducting ongoing quality of mental health care reviews as well as SHU Exclusion Law compliance reviews to assess if the Office of Mental Health (OMH) programs within the Department of Corrections and Community Supervision (DOCCS) facilities conform to the requirements of the SHU Exclusion Law.

On June 18, 2020, the Justice Center’s Forensic Unit initiated a remote review of the Auburn Correctional Facility’s Special Housing Unit (SHU) to review the quality of mental health care provided to inmate/patients in accordance with the SHU Exclusion Law, OMH policies, and DOCCS directives. The attached review details the Justice Center’s findings and recommendations.

The Justice Center looks forward to your response to the attached findings and recommendations by April 23, 2021. Please direct any correspondence or concerns related to this review to me at denise.miranda@justicecenter.ny.gov. Thank you for your continued cooperation.
Sincerely,

Denise M. Miranda, Esq.
- Executive Director

Cc: Davin Robinson, Deputy Director, Outreach, Prevention & Support
Melissa Finn, Unit Director, Forensics
Dr. Anne Sullivan, M.D., Commissioner, OMH
Danielle Dill, Acting Executive Director, CNYPC
William Vertoske, Deputy Director Psychiatric Center 2, OMH
Laurie Turnbull, OMH
Maureen Morrison, OMH
Meaghan Bernstein, Director of CBO Risk Management OMH
Bryan Hilton, Associate Commissioner, DOCCS

NOTE: All correspondence related to this matter will be available for public inspection under Article 6 of the Public Officers Law. Material which will be required to be kept confidential or which is protected from disclosure under the Public Officers Law or other laws will be redacted prior to such disclosure.
Review of Justice Center Oversight Action
Auburn Correctional Facility – Special Housing Unit (SHU) Compliance/Quality of Care
JC#: [Redacted]

The Justice Center for the Protection of People with Special Needs (the Justice Center) conducted a remote SHU Review of the Auburn Correctional Facility (CF) to review the quality of mental health care provided to inmates, and determine compliance with the SHU Exclusion Law, Office of Mental Health (OMH) policies, and Department of Corrections and Community Supervision (DOCCS) directives.1 The census of the SHU at the time of the review was 64 inmates and 21 were on the mental health caseload.2 There were no inmate-patients in the Auburn CF SHU that met the SHU Exclusion Law criteria for the definition of serious mental illness during our review.

In addition to reviewing the OMH clinical case record, DOCCS SHU folders, and the DOCCS guidance records, Justice Center staff members also requested any exceptional circumstances documentation for the current census for a time-period of six months.

Compliance Determination:

To assess compliance, the Forensic Unit reviewed the records of 20 inmates and/or patients to determine whether the facility was in compliance with the conditions of the SHU Exclusion Law:

1. Upon placement of an inmate into segregated confinement at a level one or level two facility, a Suicide Prevention Screening Instrument shall be administered by staff from the Department or the Office of Mental Health who has been trained for that purpose;

2. Within one business day of the placement of such an inmate into segregated confinement at a level one or level two facility, the inmate shall be assessed by a mental health clinician;

3. If an inmate with a serious mental illness is not diverted or removed to a residential mental health treatment unit, such inmate shall be reassessed by a mental health clinician within fourteen days of the initial assessment and at least once every fourteen days thereafter;

4. Inmates with serious mental illness who are not diverted or removed from segregated confinement shall not be placed on a restricted diet, unless there has been a written determination that the restricted diet is necessary for reasons of safety and security. If a restricted diet is imposed, it shall be limited to seven days, except in the exceptional circumstances where the joint case management committee determines that limiting the restricted diet to seven days would pose an unacceptable risk to the safety and security of the facility.

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1 Correction Law §§137(6)(d) and (e), 401.
2 Two inmates in the SHU where not on the mental health caseload were excluded from the Justice Center’s sample as they were pending disciplinary hearings or on Administrative Segregation status.
of inmates or staff. In such case, the need for a restricted diet shall be reassessed by the joint case management committee every seven days; and,

5. All inmates in segregated confinement in a level one or level two facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within fourteen days of their initial mental health assessment, and additional interviews at least every thirty days thereafter, unless the mental health clinician at the most recent interview recommends an earlier interview or assessment.

The Justice Center’s review found there were no inmate/patients on exceptional circumstances during the review period. Based upon our review, the Justice Center has made a determination that the Auburn CF is in compliance with the SHU Exclusion Law.

Quality of Mental Health Care

The Justice Center also reviewed the quality of corrections-based mental health care provided to 20 individuals in the SHU. To complete a thorough evaluation, Forensic Unit staff requested private interviews and three individuals chose to speak with the Justice Center. In addition, we examined clinical documentation, DOCCS SHU folders, Guidance Records, and reviewed the DOCCS Sign-In Logbook and Unit Activity Logbook. Our findings from this review are outlined below.

Justice Center Findings

1. Following his transfer to the Auburn CF and admission to the SHU, [redacted], a Mental Health Service Level (MHSL) 2 had the opportunity to speak with OMH clinical staff on [redacted] occasions between [redacted] and [redacted].

[redacted], diagnosed with [redacted], transferred from the [redacted] CF to the Auburn CF on [redacted] as a SHU to SHU transfer. Following his transfer, OMH provided [redacted] with interviews at least twice per month, including three in [redacted]. Clinical staff provided detailed information in the recommendation section of the Special Housing Unit Mental Health Assessment of [redacted] concerns and requests, providing assistance when able.

2. The Justice Center review determined that during the six-month review period, treatment plan goals remained the same for ten inmate-patients, no matter what their clinical diagnosis or MHSL.

Developing, implementing, and changing treatment plans based on the individual needs of inmate-patients is the cornerstone of providing effective mental health treatment and ensuring that inmate-patients are engaged in their treatment. Ten inmate-patients, all with MHSL’s ranging from 1-4, had the Treatment Plan goal of:

- To assist Mr. X with housing in the SHU/LTKL setting, and to be able to cope and deal with the symptoms, and also develop insight into the role his behavior into the

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current consequences. Mr. X will be ready for discharge from mental health services when he is able to manage problematic symptoms independently – specifically XXX and XXXX. Also, he will be able to demonstrate adequate adjustment to this setting, and appropriate coping skills.

In addition, the majority of the “problematic symptoms” were the same for inmates/patients with the same diagnosis. For example, inmate-patients with a diagnosis of antisocial personality disorder/adjustment disorder all had the following problematic behaviors; poor coping skills/impulse control and borderline personality disorder – mood disturbances.  

3. Residential Crisis Treatment Program (RCTP) Observation Referral to Clinical Director/Designee documentation for [REDACTED] (DIN [REDACTED]), was not completed according to policy.  

[REDACTED], a MHSL 1 diagnosed with [REDACTED] and [REDACTED], was admitted to the RCTP on [REDACTED] for threats of [REDACTED]. Throughout the course of his stay, he noted his concerns related to security staff and a [REDACTED] progress note indicated that “he denied that this was in reaction to conflicts with security, however based on his history RCTP admissions are often triggered by security related issues.” continued to make threats if he was released back to SHU, such as [REDACTED]. By [REDACTED], his cell was noted to be [REDACTED]. In addition, he had a recent [REDACTED] documented as he [REDACTED] also commented on [REDACTED].” He remained in the RCTP until [REDACTED] when [REDACTED] acknowledged, was released later that day back to SHU. Per the documentation provided to the Justice Center, there was no RCTP Observation Referral to Clinical Director/Designee consultations completed during [REDACTED] 20 day stay in the RCTP.

4. [REDACTED] was to be seen at the request of the Joint Central Office Review Committee (JCORC) for diagnostic clarification and has extensive disciplinary sanctions through [REDACTED].

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4 Inmate-Patient name: MHSL – Diagnosis – Problematic Symptoms: 

- [REDACTED] – poor coping skills/impulse control, 
- [REDACTED] – poor coping skills/impulse control, 
- difficulty with depression, 
- [REDACTED] – poor coping skills/impulse control, 
- difficulty with 
- [REDACTED] – poor coping skills/impulse control, 
- [REDACTED] – poor coping skills/impulse control.

5 CBO Policy #930- Progress Notes, states the following for RCTP admissions: RCTP Observation Referral to Clinical Director/Designee Progress Note (MED CNYPC 358) - required upon CNet.CBO e-mail notification that an inmate-patient has been housed in an RCTP Observation Cell in excess of seven days. Should the CNet-CBO e-mail notification occur on a weekend or holiday, this progress note must be completed on the next business day. Additional subsequent RCTP Observation Referral to Clinical Director/Designee Progress Notes are completed every seven days from the date of the original consultation for the duration of an inmate-patient’s stay in an RCTP Observation Cell.
According to Special Housing Unit Mental Health Assessment, he was seen via Video Teleconferencing (VTC) at the request of the JCORC team for diagnostic clarification. The coordinating Progress Note, dated the same day, does not indicate that the clarification was requested or even explored. According to the and clinical progress notes provided to the Justice Center, there was no other documentation pertaining to this request or whether it was completed.

Upon the Justice Center’s review of disciplinary tickets and history, he currently has SHU sanctions through and keeplock sanctions through . In addition, has loss of packages, phones and recreation through , and loss of commissary through . According to a SHU Assessment, DOCCS was working on a transfer to a step-down program.

Justice Center Recommendations

1. OMH clinical staff should be commended for the specialized attention provided to during his time that he was in the Auburn SHU.

2. To ensure an adequate plan for individualized mental health care, it is important that mental health staff review all the inmate-patient’s assessments/evaluations, determine their problems and identified needs, and prioritize those problems, issues, and concerns into the inmate-patient’s treatment plan. The Justice Center requests that the unit chief review all treatment plans to maintain that all treatment goals are not uniform by diagnosis. If needed, all OMH clinical staff should be retrained in CBO Policy #9.22 – Treatment Plan.

3. Please provide the Justice Center with documentation demonstrating RCTP Observation Referral to Clinical Director/Designee consultations were completed for , if applicable. Should OMH determine RCTP Observation Referrals to Clinical Director/Designee were not completed according to policy, please review CBO Policy #9.30 with the appropriate staff at the Auburn CF.

4. The Justice Center requests all documentation from OMH, DOCCS and the Joint Central Office Review Committee that diagnostic clarification was provided for after . In addition, DOCCS should provide an update regarding current disciplinary status, including his SHU/keeplock sanctions, loss of privileges, and current housing location.

Review conducted by: 

Melissa Finn, Forensic Unit Director
April 13, 2021

Melissa Finn  
Forensic Unit Director  
NYS Justice Center for the Protection  
of People with Special Needs  
161 Delaware Avenue  
Delmar, NY 12054

Re: [Redacted] Justice Center Oversight Action

Dear Mrs. Finn:

This is in response to the New York State Justice Center’s report of the site visit conducted at Auburn Correctional Facility ensuring SHU Exclusion Law compliance on June 18, 2020.

It is noted that there were no recommendations directed toward the Department of Corrections and Community Supervision and that Auburn Correctional Facility is in compliance with the SHU Exclusion Law.

Thank you for the opportunity to comment on your report. I appreciate your oversight and any recommendations to improve our system.

Sincerely,

[Signature]

Bryan Hilton  
Associate Commissioner

cc: Tim McCarthy, Superintendent – Auburn Correctional Facility
April 23, 2021

Denise M. Miranda, Esq.
Executive Director
Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, New York 12054

Dear Ms. Miranda:

We received your letter dated March 23, 2021 in response to the Justice Center's June 18, 2020 remote review of the Auburn Correctional Facility (CF) Special Housing Unit (SHU) to determine the quality of mental health care provided to inmate-patients, and determine compliance with the SHU Exclusion Law, the Office of Mental Health's (OMH) policies, and the Department of Corrections and Community Supervision's (DOCCS) directives.

Below are the Justice Center's findings and recommendations, from the above-referenced review, and OMH's response to each. The related documentation is enclosed.

Recommendation #1:
"OMH clinical staff should be commended for the specialized attention provided to [redacted] during his time that he was in the Auburn SHU."

OMH Response:
We appreciate the Justice Center’s recognition of the treatment team’s extra efforts with [redacted] and have passed this commendation on to the Auburn OMH staff.

Recommendation #2:
"To ensure an adequate plan for individualized mental health care, it is important that mental health staff review all the inmate-patient's assessments/evaluations, determine their problems and identified needs, and prioritize those problems, issues, and concerns into the inmate-patient's treatment plan. The Justice Center requests that the unit chief review all treatment plans to maintain that all treatment goals are not uniform by diagnosis. If needed, all OMH clinical staff should be retrained in CBO Policy #9.22 – Treatment Plan."

OMH Response:
OMH determined that, in conjunction with review of CBO CNYPD Policy #9.22 Treatment Plan, it would be beneficial for the Acting Director of Social Work to collaborate with CNYPD's Education and Training Department to develop a refresher Treatment Plan training for clinical staff. This conversation and training development are in progress.

Recommendation #3:
"Please provide the Justice Center with documentation demonstrating RCTP Observation Referral to Clinical Director/Designee consultations were completed for [redacted] if applicable. Should OMH determine RCTP Observation Referrals to Clinical Director/Designee were not
completed according to policy, please review CBO Policy #9.30 with the appropriate staff at the Auburn C.F."

OMH Response:
Although these notes were not completed, OMH confirmed that the consults occurred per policy. CNTPC CBO Policies #4.0 RCTP Observation Cells and Dormitory Beds and #9.30 Progress Notes were recently updated, and it is no longer a requirement that staff complete separate RCTP Observation Referral to Clinical Director/Designee Notes. Therefore, policy was not reviewed with staff. Copies of the updated policies were recently sent with another OMH response to the Justice Center.

Recommendation #4:
"The Justice Center requests all documentation from OMH, DOCCS and the Joint Central Office Review Committee [JCORC] that diagnostic clarification was provided for [redacted] after [redacted]. In addition, DOCCS should provide an update regarding [redacted] current disciplinary status, including his SHU/keeplock sanctions, loss of privileges, and current housing location."

OMH Response:
To clarify, [redacted] was seen jointly on [redacted] by the SHU Coordinator in person, and the prescriber via Video Teleconferencing (VTC). As such, the prescriber’s [redacted] progress note is from a session that was specifically scheduled to discuss diagnostic clarification. Prescriber peer reviews continue to emphasize to Medical Staff Organization (MSO) members the importance of accurate documentation in the medical record that reflects if they are responding to a referral.

[redacted] diagnosis was evaluated and subsequently changed in the months after the JCORC review. On [redacted], his primary diagnosis was changed from [redacted] with [redacted] to [redacted]. The Office of Mental Health would like to note that [redacted] require ample time to effectively review since one stressor could be replaced by another in the correctional setting, and/or the stressors could be resolved with changes in location or other change in circumstance.

We thank you for bringing your concerns to our attention.

Sincerely,

Li-Wen Lee, M.D.
Associate Commissioner
Division of Forensic Services

cc: Danielle Dill, Psy.D., Executive Director, CNTPC
William Vertoske, Deputy Director, Corrections Based Operations, CNTPC
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