
From: Joy Turner <joy@okdlc.org>
Subject: [External]Concerns regarding ODMHSAS Waiting List for Competency Treatment and Care for Inmates at OCDC
Date: January 10, 2022 at 2:15:14 PM CST

To: [REDACTED]
Cc: [REDACTED]

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Good
afternoon,

The Oklahoma Disability Law Center (ODLC) is the federally funded Protection and Advocacy System for people with disabilities in the state of Oklahoma. As such, our office is mandated to protect and advocate for the rights of Oklahomans with disabilities. We are extremely concerned about the health and safety of individuals with serious mental illness in the Oklahoma County Jail as well as in the other seventy-six (76) counties around the state who are in jail waiting to be transported to the Oklahoma Forensic Center.

Around the time an Oklahoma County District Court judge threatened to hold Commissioner Terri White in contempt of court after one defendant waited six months for treatment at the OFC, Melissa Sublett and Joy Turner from our office met with Dewayne Moore to discuss our office's concerns regarding the waiting list for competency treatment at the Oklahoma Forensic Center. During our meeting, we were assured the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) had a plan in place to reduce the length of the waiting list. The ODMHSAS was able to significantly reduce the waiting time. However, the list has again grown to a length which we believe constitutes a crisis for pretrial detainees awaiting transport to the Forensic Center.

This crisis is illustrated perfectly by an email sent by Dr. Gabriel Cuka, OCDC's Chief of Psychiatry, to Madison Melon, an attorney with the Oklahoma County Public Defender's Office (see below). In the email Dr. Cuka lists eighteen (18) OCDC inmates who need inpatient psychiatric stabilization that exceeds the capability of OCDC. He goes on to state that these inmates are very ill and in some cases dying and that they are all on the list to be transported to the Oklahoma Forensic Center (OFC) to undergo competency restoration. One of them is number one hundred (100) on the list.

While the ODMHSAS is in part responsible for the waiting list, we believe the OCDC is significantly contributing to the waiting list issue. We have learned that once individuals are returned to the OCDC from OFC after OFC has determined they have regained competency, OCDC often does not comply with the OFC's

medication and treatment plan, causing inmates to decompensate, lose competency and again be put on the long waiting list to go back to the OFC. One example of this occurring was in the case of Gabriel Yalartai, whose death was reported in the news in late December of 2021.

An Application for Determination of Competency for

Mr. Yalartai was filed on August 3, 2020 and an Order of Commitment was issued on August 27th. He was sent to OFC for competency restoration and returned to the OCDC in early 2021. After his return to OCDC he decompensated to the point where another Application

for Determination of Competency had to be filed on July 19, 2021 but he committed suicide on December 26, 2021 before he could be transported to OFC a second time.

The Fourteenth Amendment's due process clause guarantees

that pretrial detainees are entitled to the same degree of protection regarding medical attention as that afforded convicted inmates under the Eighth Amendment of the United States Constitution. The courts apply an identical analysis to Fourteenth Amendment claims as they do to Eighth Amendment Claims.

The inaction of the OCDC in these cases violates

the inmates' Fourteenth and Eighth Amendment rights. If the OCDC believes the inmates are very ill and in some cases dying, as stated in the email below, they have an obligation to go to the District Court to make an application for a Medical OR bond or for

an involuntary commitment under Title 43A

or other necessary actions to ensure the safety of the OCDC inmates.

It is clear from the email from Dr. Gabriel Cuka

that the deprivation of necessary care and treatment for these individuals is sufficiently serious and that OCDC knew of and disregarded an excessive risk to the inmates' health or safety.

The OCDC cannot avoid their responsibility to pursue

necessary court action by telling the Oklahoma County Public Defender's office (or private attorneys) of the serious medical needs of their clients. Nor can they avoid their responsibility by blaming the ODMHSAS for the long waiting list for competency treatment.

We understand Oklahoma state

lawmakers will be considering legislation that would expedite access to competency restoration, thereby reducing the waiting time for treatment at the OFC in the upcoming session. However, this will not be passed soon enough to address the issue at hand.

Additionally, we have some concerns about how the legislation, if passed, would be implemented by the ODMHSAS.

We would appreciate the opportunity to talk with

the ODMHSAS, Turn Key, the OCDC and any other interested parties about these concerns, either as a group or individually by agency. Please let us know when you have availability to talk within the next two weeks. Thank you in advance for your time and attention to this matter.

Sincerely,

Brian S. Wilkerson, JD

Joy J. Turner, J.D.

Nick Southerland, JD.

Oklahoma Disability Law Center, Inc.
5555 E. 71st Street, Suite 9100
Tulsa, OK 74136

5600 N. May Ave, Suite 260
Oklahoma City, OK 73112



From:

Melon, Madison

Sent:

Thursday, December 30, 2021 8:19 PM

To:

Ravitz, Robert <[REDACTED]> Benedict, Jacob <[REDACTED]>

Subject:

FW: [EXTERNAL]: OCDC Inmates Requiring Inpatient Psychiatric Stabilization

Dr. Cuka sent me a list of the 18 sickest inmates currently in the jail. Most are pending beds at Vinita. I've included what number they are on the list if that information was available. I'm happy to share with all the individual lawyers, but it seems like our team knows their clients are sick. Let me know if you want me to follow up on anything.

#1 last court date at hospital

#2 pending comp eval

#3 pending bed at OFC

#4 pending bed at OFC

#5 pending comp eval

#6 pending bed at OFC, #100 on list

#7 pending MHC app

#8 pending bed at OFC

#9 pending comp eval

#10 pending bed at OFC

#11 Tony Coleman

#12 Can't find him in DBK or OCIS, I think I've heard Micah talk about him

#13 pending bed at OFC #94

#14 , pending bed at OFC

#15 pending bed at OFC #14

#16 pending bed at OFC

#17 pending bed at OFC #43

#18 pending bed at OFC

From:

Gabriel Cuka [mailto:gcuka@turnkeyhealthclinics.com]

Sent:

Monday, December 27, 2021 1:40 PM

To:

Melon, Madison [REDACTED]

Cc:

Stephanie Williams [REDACTED]; Mark Winchester [REDACTED]; Tammy Hill [REDACTED]

Subject:


[EXTERNAL]: OCDC Inmates Requiring Inpatient Psychiatric Stabilization

Ms. Melon:

Here is my list of OCDC inmates who need inpatient psychiatric stabilization that exceeds the capability of OCDC. Basically, these individuals need forced long acting injectable antipsychotic agents such as haldol decanoate. I am not saying that these inmates are incompetent in the Oklahoma legal sense of the term. These inmates are very ill and in some cases dying. I think that all of these cases are handled by your office. If not, let me know and we will try to track down their private attorneys to pass on this information.

Patient	Date Added
[REDACTED]	12/13/2021 1314
[REDACTED]	12/08/2021 1247

	12/02/2021 1437
	12/01/2021 1420
# [	12/01/2021 1304
# [	11/24/2021 1904
# [	11/24/2021 1833
	11/18/2021 1459
	11/17/2021 1623
#1 DC 	11/17/2021 1521
	11/03/2021 1221

	10/27/2021 1436
	10/06/2021 1412
	09/08/2021 1339
	08/18/2021 1412
	08/11/2021 1350
	07/16/2021 0758
	06/29/2021 1323

Rows: 18

Please let their attorneys know about their problem.

Regards,

Gabriel M Cuka, MD, MBA

Chief of Psychiatry

Oklahoma County Detention Center

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