

- 7 -

observation, or measures to prevent self-inflicted serious bodily harm.

31. "Substantial Compliance" shall mean a level of compliance that does not significantly deviate from the terms of this Settlement Agreement, provided that any deviation poses no significant risk to detainee health or safety. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance.

### **III. SUBSTANTIVE REMEDIAL MEASURES**

The State shall implement the following measures at OCCC:

32. Seriously mentally ill detainees at OCCC shall not be placed in isolation or individualized seclusion in a manner that would pose an undue risk to the detainee's health and safety. Accordingly, with respect to seriously mentally ill detainees, the State shall:

- a. cease the use of "therapeutic lockdown" as the practice was employed in October 2005;
- b. develop policy and procedures that comport with generally accepted professional correctional standards regarding the use of individualized seclusion or restraint;

- 8 -

- c. have a qualified mental health professional review disciplinary charges against detainees with serious mental illness who have been placed in individualized seclusion to determine the extent to which the charge may have been related to serious mental illness, and to determine whether a detainee's serious mental illness should be considered by the State as a mitigating factor when punishment is imposed upon detainees with a serious mental illness. This review shall be conducted prior to the imposition of punishment and when appropriate, shall include a clinical interview of the detainee.
- d. use individualized seclusion only in accordance with generally accepted professional correctional standards of practice; use individualized seclusion only when such use is justified, and documented as such; monitor and assess the detainees in individualized seclusion; and not use individualized seclusion for convenience of staff, or in lieu of adequate staff;
- e. as part of the requirements of Paragraph 32(d), provide that for seriously mentally ill detainees placed into individualized seclusion:
  - 1. a qualified mental health professional ("QMHP") shall conduct a face-to-face assessment of the

- 9 -

detainee within four hours after the detainee is placed into individualized seclusion; if the QMHP is not a physician or a psychologist, the QMHP shall consult a physician or psychologist within the same four-hour period;

2. a QMHP shall conduct another face-to-face assessment of the detainee at least once during the next 12 hours; if the QMHP is not a physician or a psychologist, the QMHP shall consult a physician or psychologist within that same 12-hour period;
3. a qualified physician or psychologist shall conduct a face-to-face assessment at least once every 24 hours while the detainee remains in individualized seclusion; a brief period of release will not constitute a break of the 24-hour period; if a physician or a psychologist conducts an assessment under subsection 1., or 2., above, a redundant assessment is not necessary within the same 24 hour period;
4. a physician (or psychiatrist) must assess a detainee at least once every 72 hours while the detainee remains in individualized seclusion; if a physician (or psychiatrist) conducts an assessment

- 10 -

under subsections 1., 2., or 3., above, a redundant assessment is not necessary within the same 72 hours; and

5. consultation by a psychiatrist shall be obtained, when feasible, for instances when a detainee is in individualized seclusion for over 48 hours.
- f. use restraints only in accordance with generally accepted standards of professional practice; use restraints only when justified, and documented as such; assess and monitor detainees in restraint; not use restraint as punishment for psychosis-related behavior, for convenience of staff, or in lieu of treatment or therapy, or in lieu of adequate staff.
- g. develop policies and procedures that comport with generally accepted professional correctional standards regarding the practice of "suicide watch;"
- h. adequately assess and monitor detainees placed on suicide watch; adequately assess and monitor the detainees' health and safety while on suicide watch; release detainees from suicide watch as their clinical condition indicates according to generally accepted professional correctional standards of care; and
- i. use individualized seclusion or restraints only in a physical environment and by methods that do not pose

- 11 -

undue risks to a detainee's mental and physical health.

33. Psychotropic medications shall be used only in accordance with generally accepted professional correctional standards; psychotropic medication shall not be used in lieu of more appropriate lesser-intrusive therapies, for the convenience of staff, as a substitute for adequate staff, nor as punishment. Accordingly:

- a. the State shall develop policies, protocols and procedures such that the use of psychotropic medication comports with generally accepted professional correctional standards; and,
- b. A psychiatrist shall review orders for psychotropic medication on a regular, timely basis for appropriateness or adjustment.

34. Detainees shall be assessed adequately for mental health needs and provided, where consistent with legitimate security concerns, an appropriate, confidential environment for assessment and counseling. Accordingly:

- a. the State shall develop and implement policies and practices to appropriately assess detainees with mental illness, and evaluate each detainee's mental health needs;

- 12 -

- b. the intake evaluation process shall include a mental health screening, which shall be incorporated into the detainee's medical records;
- c. OCCC shall provide timely access to a qualified mental health professional when a detainee's symptoms of mental illness require such care;
- d. practices and procedures used in the intake and evaluation process shall be sufficient to allow a complete assessment of the detainee;
- e. the mental health screening process shall include at a minimum inquiries of the detainee regarding:
  - 1. past suicidal ideation and/or attempts,
  - 2. current suicidal ideation, threat, or plan,
  - 3. prior mental health treatment,
  - 4. recent significant loss, such as the death of a family member or close friend,
  - 5. history of suicidal behavior by family members and close friends, and,
  - 6. suicide issues during any prior confinement;
- f. the mental health screening process shall further include any observations which may be provided by the transporting officer, court, transferring agency, or similar individuals regarding the detainee's potential suicide risk.