

Below is a segment of the June 2020 Illinois Auditor General report on the Illinois Department of Corrections. In the report, the Auditor decries the Department's "Failure to meet court-ordered mental health service requirements", further stating that the Department's compliance reporting submitted to the Court "contradicts evidence" and is "misleading and incorrectly [implies] the Department has exceeded court-ordered compliance requirements."

**STATE OF ILLINOIS  
DEPARTMENT OF CORRECTIONS  
SCHEDULE OF FINDINGS – STATE COMPLIANCE FINDINGS  
For the Two Years Ended June 30, 2020**

**2020-009**    **FINDING:**    (Failure to meet court-ordered mental health service requirements)

The Department of Corrections (Department) failed to meet requirements of a settlement agreement and court order for the provision of mental health services to mentally ill inmates in custody of the Department during the examination period.

In April of 2019, the United States District Court issued a permanent injunction after finding the Department was “not in substantial compliance” with the settlement agreement entered by the parties in December 2015. The permanent injunction issued by the District Court, *Rasho v. Walker*, 376 F.Supp.3d 888 (C.D. Ill. 2019) (“the court order”), ordered the Department to provide mental health treatment to prisoners, as well as to provide medication management, mental health evaluations, and necessary mental health staff throughout the correctional system. The Department filed an appeal the following month with the U.S. Appellate Court, Seventh Circuit. On April 23, 2021, the District Court extended the permanent injunction to continue during the pendency of the appeal. The appeal was pending as of August 31, 2021.

Within 90 days of the court order, the Department was required to employ a certain number of additional staff necessary to meet system-wide staffing levels for mental health staff positions as follows: 7 Site Mental Health Service Directors, 12 Mental Health Unit Directors, 16 Staff Psychologists, 142.5 Qualified Mental Health Professionals, 102 Behavioral Health Technicians, 54.5 Registered Nurses – Mental Health, 24 Staff Assistants, 85.5 Psychiatric Providers, 1 Director of Nursing – Psychiatric, and 5 Recreational Therapists.

Based on the auditor’s review of staffing levels reported by the Department, the Department failed to meet hiring requirements from the effective date of the permanent injunction through Fiscal Year 2020. Positions that were understaffed included Mental Health Unit Directors, Site Mental Health Service Director, Behavioral Health Technicians, and Psychiatric Providers. Specifically, we examined the Department’s reporting of compliance with mental health staff requirements and noted the following exceptions from the court order:

<b>Understaffing of Mental Health Positions</b>			
<b>Fiscal Year</b>	<b>Quarter</b>	<b>Mental Health Position Titles with Vacancies</b>	<b>Number of Unfilled Mental Health Service Positions (Full Time Equivalent Staff)</b>
2019	4 <sup>th</sup>	3 of 10 (30%)	6 Mental Health Unit Directors, 6 Behavioral Health Technicians, 16.787 Psychiatric Providers
2020	1 <sup>st</sup>	3 of 10 (30%)	3 Mental Health Unit Directors, 5 Behavioral Health Technicians, 18.712 Psychiatric Providers
2020	2 <sup>nd</sup>	3 of 10 (30%)	6 Mental Health Unit Director, 8 Behavioral Health Technicians, 18.637 Psychiatric Providers
2020	3 <sup>rd</sup>	4 of 10 (40%)	1 Site Mental Health Service Director, 2 Mental Health Unit Directors, 11 Behavioral Health Technician, 18.987 Psychiatric Providers
2020	4 <sup>th</sup>	3 of 10 (30%)	3 Mental Health Unit Directors, 4 Behavioral Health Technicians, 13.962 Psychiatric Providers
Source: Department Quarterly Reports on Compliance with Rasho V. Baldwin			

The court order also required the Department to meet and certify that its facilities comply with certain requirements to provide mental health services relating to the following areas: class members who are placed on mental health crisis watch, class members who are placed in segregation, class members who are prescribed psychotropic medication, and treatment plans, including mental health evaluations. The court order also required the Department to provide results of their own quality assurance audit and certification of whether compliance has been reached with the Department's quality assurance audit requirements. Within each of the mental health service areas, the court issued up to twelve specific directives requiring Department compliance.

We tested the report created by the Department to certify each facility's compliance with the above court-ordered requirements and noted the Department reported numerous facilities did not meet all court-ordered requirements for some of these mental health service areas. Specifically, the Department's quarterly reports noted the following facilities reported some noncompliance with at least one directive:

<b>Noncompliance with Mental Health Service Requirements</b>			
<b>Fiscal Year</b>	<b>Quarter</b>	<b>Number of Facilities Not in Compliance with Directive(s) in One or More Service Areas</b>	<b>Facilities Reporting Noncompliance (Number of Mental Health Service Areas with Noncompliance)</b>
2019	4 <sup>th</sup>	13 of 28 (46%)	Centralia (2), Danville (2), Dixon (3), Graham (1), Hill (3), Illinois River (5), Lawrence (5), Logan (1), Pinckneyville (1), Pontiac (5), Stateville (1), Stateville Northern Reception Center (3), Western Illinois (3)
2020	1 <sup>st</sup>	14 of 28 (50%)	Danville (3), Decatur (1), Dixon (3), Elgin Treatment Center (1), Graham (1), Hill (3), Illinois River (5), Lawrence (2), Pinckneyville (3), Pontiac (4), Stateville (4), Stateville Northern Reception Center (3), Taylorville (1), Western Illinois (4)
2020	2 <sup>nd</sup>	15 of 28 (54%)	Danville (3), Decatur (1), Dixon (3), Graham (1), Hill (3), Illinois River (5), Joliet Treatment Center (3), Lawrence (4), Pinckneyville (3), Pontiac (3), Southwestern Illinois (2), Stateville (5), Stateville Northern Reception Center (3), Taylorville (1), Western Illinois (5)
2020	3 <sup>rd</sup>	14 of 28 (50%)	Danville (1), Dixon (3), Graham (2), Hill (4), Illinois River (5), Lawrence (3), Logan (1), Menard (2), Pinckneyville (1), Pontiac (3), Stateville (2), Stateville Northern Reception Center (3), Taylorville (1), Western Illinois (5)
2020	4 <sup>th</sup>	15 of 28 (54%)	Danville (2), Dixon (3), Graham (1), Hill (1), Illinois River (5), Joliet Treatment Center (2), Lawrence (3), Logan (3), Menard (2), Pinckneyville (1), Pontiac (3), Stateville (4), Stateville Northern Reception Center (3), Taylorville (1), Western Illinois (5)

Source: Department Quarterly Reports on Compliance with Rasha V. Baldwin

Department management stated the exceptions were due to a shortage of qualified individuals who applied to fill the necessary positions. In addition, Department management stated the centers that did not comply with all court ordered requirements resulted from a lack of staff, capacity issues, timing issues, untimely review by medical personnel, and a lack of documentation. Subsequent to our testing and the Department's agreement with exceptions noted, Department management stated they disagree with the finding and contended that although the facts presented are technically accurate based on facility certifications, noncompliance would be better measured based on the number of the court's 29 directives facilities had not complied with rather than the 5 mental health service areas those directives related to.

Failure to provide appropriate and reasonable treatment to seriously mentally ill inmates coupled with deliberate indifference to those health needs violates inmates' Eighth Amendment rights. The Department agreed to litigate certain portions of the settlement agreement if compliance did not occur, which resulted in the court order currently on appeal. Failure to comply with court-ordered requirements increases the risk of legal liability of the Department. (Finding Code No. 2020-009)

**RECOMMENDATION:**

We recommend the Department allocate the necessary resources and take all reasonable and appropriate measures in order to meet court-mandated staffing and reporting requirements.

**DEPARTMENT RESPONSE:**

Recommendation accepted. The Department agrees that the audit accurately reflects the publicly available data within facility certifications that self-identify compliance with the permanent injunction in *Rasho*. The facility certifications provide no more than an opinion of those at the facility level regarding their compliance with the order. The Department's quarterly reports fully explain how and why it has complied with the 29 data points set forth in the injunction.

The Department further responds by stating it has, at all times, during the effective date of the permanent injunction provided appropriate and constitutionally required mental health care to its population. The Department's compliance with the 29 requirements within the *Rasho* permanent injunction throughout the entire system (28 facilities), based solely on facility certifications, indicates it has averaged 91.28% (In this calculation, a facility is considered compliant with a mandate within the *Rasho* permanent injunction if it rates its compliance 85% or more, consistent with National Commission on Correctional Health Care standards) compliance over the span of the audit cycle. The Department will continue to dedicate resources to ensuring we provide constitutionally required mental health care to individuals in custody. The most recent quarterly report for July 2021 indicates a compliance rate systemwide of 96.3%.

### **ACCOUNTANT'S COMMENT:**

The Department's response contradicts evidence examined, as follows:

- The Department contends its "...quarterly reports fully explain how and why it has complied with the 29 data points set forth in the injunction." However, when other quarterly report components documenting compliance by each facility are considered, the quarterly reports still disclose noncompliance with court-ordered requirements.
- The April 2019 court order found "that despite the good efforts of the [Department], constitutionally deficient care [was] still being provided" and that "finding [was] based generally on the fact that there [was] insufficient mental health staffing at the [Department]." The court order set requirements for mental health care which are currently in effect, pending the Department's appeal. The documentation provided to the auditors does not provide sufficiently appropriate audit evidence to establish the Department's compliance with the staffing requirements of the court order.
- The Department's response states "The facility certifications provide no more than an opinion of those at the facility level regarding their compliance with the order." However, the court order's first compliance requirement is "A quarterly report created by IDOC shall certify each facility's compliance with the above requirements." (emphasis added) The Department's reports to the Court state the quarterly reports and attachments certify whether each facility complies with the court order. The Department cannot both certify to the Court that the Department's submissions certify each facility's compliance as required by the court order, while also indicating to the auditors that those certifications are not the Department's opinion.
- The compliance rates cited by the Department are misleading and incorrectly imply the Department has exceeded court-ordered compliance requirements. Each of the facilities did not meet at least 85% compliance with each of the 29 directives based on facility certifications, as reported by the Department to the Court.