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FILED
DISTRICT COURT OF GUAM
JAN 16 2015
JEANNE G. QUINATA
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA, Plaintiff, vs. TERRITORY OF GUAM, et al., Defendants.	CIVIL CASE NO. 91-00020 **ORDER**

This matter came before the Court for a settlement conference on January 15 and 16, 2015. Present for the United States were Assistant U.S. Attorney Mikel Schwab and Assistant U.S. Attorney Jessica Cruz (in person) and Jeffrey Murray and Shelley Jackson, Department of Justice, Civil Rights Division (by phone). Present for the Territory of Guam were Assistant Attorney General Kathy Fokas and Jose San Agustin, Director of the Department of Corrections ("DOC"). J. Bradley Klemm, the Independent Monitor, was also present. The conference focused on the outstanding issues and a timeline for the DOC's development, revision, and implantation of a plan that provides adequate medical, dental and mental health care for inmates and detainees.

As reflected in the Joint Status Report of September 26, 2014 (ECF No. 288), the United States and the Territory of Guam ("Parties") had previously agreed upon, and the Court hereby orders the following timelines:

1. **Formulary**. Within 30 days of the Effective Date[1] of this Order, DOC shall establish and implement a written list of prescription and nonprescription medication that are ordinarily available to authorized prescribers, including consultants working at DOC.

2. **Health Record Format.** Within 30 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure that health records are properly created and maintained for all inmates and detainees.

3. **Informed Consent.** Within 30 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure that all examinations, treatments, and procedures are governed by applicable informed consent practices.

4. **Infection Control.** Within 90 days of the Effective Date of this Order, DOC shall establish and implement effective Infection Control program in DOC facilities to ensure that inmates receive healthcare in a clean, safe, and healthy environment.

5. **Pharmaceutical Operations**. Within 90 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure effective and efficient pharmaceutical operations at DOC facilities.

6. **Receiving Screening.** Within 120 days of the Effective Date of this Order, DOC shall establish and implement a receiving screening process that is performed on all inmates and detainees upon their arrival at DOC facilities to ensure that their emergent and urgent health needs are met.

7. **Initial Health Assessment.** Within 180 days of the Effective Date of this Order,

[1] "Effective Date" is defined as February 16, 2015.

DOC shall establish and implement policies and procedures to ensure that all inmates and detainees receive an initial health assessment by a qualified healthcare professional.

8. **Nonemergency Health Assessment ("Sick Call").** Within 180 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure that: all inmates and detainees have the opportunity daily to request health care; requests for healthcare are documented and reviewed for immediacy of need; and sick call is conducted on a timely basis in a clinical setting by qualified healthcare professionals.

9. **Procedure in the Event of an Inmate Death or Suicide.** Within 270 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure that the death of any detainee or inmate is reviewed to determine the appropriateness of clinical care; to ascertain whether changes to policies, procedures, or practices are warranted; and to identify issues that require further study.

10. **Infirmary Operations.** Within 270 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures and maintain adequate staffing levels to ensure that infirmary care is appropriate to meet the serious needs of patients.

11. **Quality Assurance Process**. Within 270 days of the Effective Date of this Order, DOC shall establish and implement a Continuous Quality Improvement program that monitors and improves healthcare delivered in DOC facilities.

Upon further agreement by the Parties in discussion with the Court on January 15-16, 2015, the Court hereby orders as follows:

1. **Psychotropic Medication.** Within 45 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures for ensuring that all inmates and detainees receive timely administration of prescribed psychotropic medications.

2. **Emergency Services.** Within 120 days of the Effective Date of this Order, DOC

shall review, update and implement policies and procedures for providing emergency medical care to inmates and detainees.

3. **Continuity of Care.** Within 120 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures for inmates and detainees to receive continuity of medical care upon placement at the DOC facility.

4. **Suicide Prevention.** Within 120 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures pertaining to suicide prevention.

5. **Intoxication and Withdrawal.** Within 120 days of the Effective Date of this Order, DOC shall review, update and implement policies and procedures for identifying and addressing the medical care needs of incoming inmates and detainees who may be intoxicated when placed in a DOC facility. DOC shall provide training and standard procedures to its correction officers in identifying and treatment of intoxicated inmates and detainees.

6. **Emergency Psychotropic Medication.** Within 120 days of the Effective Date of this Order, DOC shall review and update as necessary policies and procedures for administering emergency psychotropic medication. DOC shall provide records for inspection and document review to ensure that policies and procedures for emergency psychotropic medication have been implemented.

7. **Chronic Care.** DOC reports that every inmate and detainee needing medical treatment for chronic medical conditions has been identified and is receiving such care. Within 120 days of the Effective Date of this Order, DOC shall provide a list of inmates and detainees receiving medical services for chronic conditions and medical records of such inmates and detainees reflecting regular medical treatment. DOC shall further review and update its policies and procedures for chronic care, as necessary, within 120 days of the Effective Date of this Order.

8. **Mental Health Screening and Evaluations.** Within 120 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures to ensure that all inmates and detainees are screened and, if necessary, evaluated for mental health care needs.

9. **Nursing Assessment.** Within 180 days of the Effective Date of this Order, DOC shall review and update, as necessary, its policies and procedures and ensure that such policies and procedures are implemented for nursing assessments that allow for appropriate triage, diagnosis and treatment of the medical needs of inmates and detainees.

10. **Basic Mental Health Services.** Within 180 days of the Effective Date of this Order, DOC shall review, update and implement its policies and procedures for administration of basic mental health services. DOC shall further provide the United States with medical charts and/or records reflecting implementation of such policies and procedures.

11. **Oral Care.** Policies and procedures regarding oral care received by inmates and detainees appear lacking and particularly problematic. Within 180 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures for ensuring that inmates and detainees receive medically necessary dental health services in conformance with the national standard for detention facilities.

12. **Seclusion and Restraint.** Within 180 days of the Effective Date of this Order, DOC shall establish and implement policies and procedures, including training for correction officers, for seclusion and restraint of inmates and detainees.

13. **Nursing Staffing.** The DOC facility currently employs four full-time nurses. As agreed by the Parties, DOC shall secure at least one more full-time nurse within 180 days of the Effective Date of this Order. DOC shall further include in its implementation plan a process for routine self-evaluation of all conditions required by the Settlement Agreement.

14. **Electronic Locking System.** The Court further orders the Territory of Guam and

DOC to secure funding and complete the repairs to the electronic locking system for Units 5, 6, 7, and 17 at the DOC facility by September 30, 2015. Counsel for DOC has agreed to assist the Director of DOC in preparing the presentations and requests for funding to the U.S. Department of Interior and the Guam Legislature.

15. **Reporting.** The Court further orders DOC to file a progress report under seal every 30 days of the Effective Date of this Order on all matters agreed upon in the September 26, 2014 Status Report (ECF No. 294) and matters addressed in this Order. At the conclusion of this lawsuit, the monthly reports will be unsealed. In addition, DOC shall continue to submit bi-weekly reports regarding clinical operations at DOC to the Monitor and the United States.

The parties shall continue to establish, review, revise, and implement policies and procedures to conform with the standards and guidelines established by the National Commission on Correctional Health Care in *Standards for Health Services in Jails*, *Standards for Health Services in Prisons*, and *Standards for Mental Health Services in Correctional Facilities*. *See* National Commission on Correctional Health Care, http://www.ncchc.org/standards-guidelines (last visited January 16, 2015).

APPROVED AS TO FORM AND CONTENT this 16th day of January, 2015:

ALICIA A.G. LIMTIACO
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Districts of Guam and the NMI

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Assistant Attorney General

_____
JOSE A. SAN AGUSTIN, Director
Department of Corrections

_____
J. BRADLEY KLEMM
Independent Monitor

SO ORDERED this 16th day of January, 2015.

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ALEX R. MUNSON
Senior District Judge