

Summary and Key Points

First Report from the Independent Court Monitor (dated November 4, 2022) **From *Remick v. Philadelphia*, 20 Civ. 1959 (E.D. Pa)**

The Independent Court Monitor (“Monitor”) issued its first report evaluating compliance with the settlement in the class action lawsuit, *Remick v. Philadelphia*, 20 Civ. 1959 (E.D. Pa.) relating to conditions at the Philadelphia Department of Prisons (“PDP”). This case was litigated by the Pennsylvania Institutional Law Project, Kairys Rudovsky Messing Feinberg & Lin, Abolitionist Law Center, and Dechert LLP. Here are some key points:

Monitoring Process Overview

The Monitor assembled a team (“Monitoring Team”) that includes correctional and correctional health experts. The Monitoring Team obtained numerous records, completed 3 site visits, and met with prison staff members as well as organizations that represent or advocate for people incarcerated in the Philadelphia jails.

Compliance Not Met

The Philadelphia Department of Prisons has not yet reached compliance in any of the major provisions of the settlement agreement. While there has been improvement in some areas, staffing and conditions remain critical and deeply concerning.

Staffing Remains a Crisis

The Monitor’s report confirms that the staffing shortages remain at a crisis level. The Monitor herself called the staffing situation “deeply concerning,” and included troubling statistics. For example, as of September 18, 2022:

1. Vacancy rates of custody staff (correctional officers) is 41%.
2. Vacancy rates of maintenance staff is 40%.
3. Vacancy rates of all staff is 39%.

These high vacancy rates affect all aspects of the prison. Voluntary resignations are one of the main reasons for the staffing crisis. There was a 107% increase in resignations from 2021 to 2022.

The Monitor pointed out that the “PDP’s dependence on overtime damages morale and renders even the most committed workforce exhausted, which exacerbates existing safety, security, and operational concerns that the Agreement was negotiated to resolve.” The Monitor then stated, “**The voluntary resignation and post vacancy rates that PDP is experiencing constitute a dire personnel crisis, which is increasing in magnitude and cannot be corrected by the efforts and resources at the disposal of PDP alone.**”

The Report provides several recommendations that the City of Philadelphia and Prison Commissioner should immediately consider to resolve this crisis, which include evaluating current salaries and employee benefits, hiring a qualified recruiting firm, and doing an independent analysis of current staffing to determine true staffing needs, among other things.

Out-Of-Cell Time Remains a Problem

Time out of the cell permits incarcerated people to shower, make phone calls, attend visits, participate in activities and recreation, which are important in avoiding prolonged isolation. The Monitor reports that PDP executives are aware of the harm that extended isolation can inflict on incarcerated people. Yet the Monitor writes that the “PDP has not met the out-of-cell benchmarks by prescribed deadlines,” even if some incarcerated people receive some out-of-cell time most weeks. The Monitor noted that the current methods for documenting and tracking out-of-cell time are inadequate and explained that PDP is initiating a process to obtain a more technologically-advanced system (such as radio-frequency identification or RFID) that many other jails and prisons use.

With the lack of staffing, remaining prison staff stated that they leave the housing units and supervise incarcerated people from control units. The Monitor explained that the current method of operating out-of-cell time “**poses significant safety risks for Class members and staff.**”

Placement in segregation, which generally consists of solitary confinement, has significant, systemic issues. Incarcerated people are not being reevaluated timely when they have been placed in administrative segregation, and are serving longer time in disciplinary segregation than sentenced. Some incarcerated people who are experiencing mental illness have even been placed in segregation because there is no appropriate other housing, in violation of the settlement agreement, and contributing individuals in acute psychiatric distress.

Delays Continue in Providing Healthcare

The Philadelphia Department of Prisons has made progress in reducing some backlogs, with a 12% reduction in total backlog over a 7 week period, especially in behavioral health and chronic care appointments. Troubling however, is the **285% increase in backlogged Medication Assisted Treatment appointments**, and **50% increase in Nursing Sick Call appointments**. The result means that people who are recently arrested with opioid use disorder may suffer through painful and dangerous withdrawal as they wait for the appointment. Further, in July 2022, incarcerated patients only made it to 56% of their scheduled off-site medical appointments.

The delays in medical care also are impacted by staff vacancies. While PDP successfully hired additional staff, the staff departures have resulted in only a net gain of 2 employees. The Monitor reports that these vacancies strain current medical staff, exhausting and demoralizing even those who are committed. The result is “**significant lapses in the provision of medical and mental health care.**”

Placement of Incarcerated People with Serious Mental Illness is Problematic

The Monitoring Team observed incarcerated patients with serious mental illness **in segregation in acute psychiatric distress** who required higher levels of care than they were receiving. The Monitor raised concerns about the process that permitted the placement of these individuals in segregation and the overall quality of care in the segregation units. The Monitor questioned whether people were imposed punishment for symptoms of serious mental illness.

COVID-19 and Quarantine

The PDP's policies on COVID-19 and quarantine are revised as the CDC guidances evolved. However, some incarcerated individuals still experience long quarantine periods, and in one situation cited by the Report, the quarantine period was 10 weeks. The CDC's guidance acknowledges that restrictions in movement and program access can increase stress and pose mental health risks, and thus permits variation to balance mental health and programming needs. Unfortunately, the PDP sometimes places newly arrived people into housing units that already are under quarantine, **“which undermines the purpose of strict quarantine protocols and exposes [incarcerated people] to risk.”**

The Current Living Conditions are “Unacceptable”

The Monitor found the living conditions troubling. Specifically, the Report states, “The living conditions for [incarcerated people] who occupy poorly maintained or rodent and insect-infested cells, units, and facilities are unacceptable.” The Monitoring Team **“observed serious lapses in building maintenance”** in several jails, including rust, erosion, broken toilet and sink units, no lighting, and inoperable drinking foundations and air conditioning units during the hottest summer months. They observed **“significant evidence of infestations”** in 2 jails that require immediate pest control efforts.

The Monitor noted that incarcerated people in general often raise concerns about sanitation, but emphasized that within the PDP, “when incarcerated persons from different units and different facilities throughout a system reiterate identical issues, and when cleaning supplies and bed linens become high-value currency . . . , it suggests larger issues with scarcity or distribution that require additional attention.” The Monitor recommended that PDP executives take immediate steps to remedy the situation.

Other Matters

Limitations on law library access remain. Access for some has been hindered by equipment failures, and only provided as out-of-cell time and staffing permit.

The Monitoring Team is in the process of verifying that misconducts were expunged and fines returned for those who were present for disciplinary hearings.

The PDP has increased tablets on housing units, but some units still do not have the required number of tablets available for use. Phone calls continue to be impacted by broken phones and out-of-cell time.

The Monitor noted that the “current call button system is largely ineffective.” Furthermore, Report explains that current system where call buttons are one of a few means for incarcerated people to communicate with staff, but calls remain unanswered, breeds tension incarcerated people and staff.”

The Monitor deferred a rating on the use of force matters, but has requested use of force packages relating to a randomized selection of use of force incidents.