

ANNUAL REPORT OF THE MASSACHUSETTS
TREATMENT CENTER FOR SEXUALLY
DANGEROUS PERSONS

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I. INTRODUCTION

Section 12 of AN ACT IMPROVING THE SEX OFFENDER REGISTRY AND ESTABLISHING CIVIL COMMITMENT AND COMMUNITY PAROLE FOR LIFE FOR SEX OFFENDERS, enacted as an emergency law on September 10, 1999, and as appearing in G.L. c. 123A, § 16, provides:

The department of correction . . . shall annually prepare reports describing the treatment offered to each person who has been committed to the treatment center . . . as a sexually dangerous person and, without disclosing the identity of such persons, describe the treatment provided. The annual reports shall be submitted, on or before January 1, 2000 and every November 1 thereafter, to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the house and senate committees on ways and means and to the joint committee on criminal justice.

In addition, G.L. c. 123A, § 16 further provides:

The treatment center shall submit on or before December 12, 1999 its plan for the administration and management of the treatment center to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the house and senate committees on ways and means and to the joint committee on criminal justice. The treatment center shall promptly notify said committees of any modifications to said plan.

On December 10, 1999, the Department of Correction ("the Department" or "DOC") filed its Plan for the Administration and Management of the Massachusetts Treatment Center for Sexually Dangerous Persons ("the 1999 Plan"), which described in detail the treatment offered to the civilly committed sexually dangerous persons ("SDPs") confined at the Massachusetts Treatment Center for Sexually Dangerous Persons ("Treatment Center"), as well as the Department's plan for operating the Treatment Center. The Department has filed Annual Reports updating the 1999 Plan and reporting relevant developments.

Accordingly, this report includes (a) the accomplishments of the Treatment Center in the year 2010; (b) modifications to the 1999 Plan; (c) the manner in which the Treatment Center satisfied its obligations under G.L. c. 123A during the year;

and (d) the treatment and rehabilitative services delivered to the civilly committed SDPs confined to the Treatment Center over the past year.¹

1 The Treatment Center has traditionally referred to its civilly committed population as "residents" and to state prison inmates, who are not civilly committed, as "inmates." Inmates who are sex offenders as that term is defined in 103 DOC 446 - Sex Offender Management, may voluntarily participate in the Department's sex offender treatment program at the Treatment Center, MCI-Norfolk, North Central Correctional Institution at Gardner ("NCCI-Gardner"), or MCI-Framingham (female offenders). At the Treatment Center, inmates are housed in the Modular Unit. The Department also offers sex offender treatment to male inmates confined in special housing at Old Colony Correctional Center.

II. TREATMENT CENTER'S CIVILLY COMMITTED POPULATION

As of October 6, 2010, 257 individuals were civilly committed as SDPs. Of this number, 90 individuals remain committed as SDPs under the pre-1990 version of G. L. c. 123A. As of October 6, 2010, 81 of these SDPs were housed at the Treatment Center. Six of these SDPs have been transferred to other DOC facilities pursuant to the provisions of G.L. c. 123A, § 2A. As of October 6, 2010, two of these SDPs were receiving medical care at other facilities and one was undergoing evaluation at Bridgewater State Hospital. Of the 81 SDPs committed under the pre-1990 version of the statute housed at the Treatment Center, 17 were serving concurrent criminal sentences as of October 6, 2010.

In addition, as of October 6, 2010, 167 SDPs committed under the 1999 amendments to G.L. c. 123A remain civilly committed. Also as of October 6, 2010, 77 individuals were temporarily committed to the Treatment Center pending resolution of civil commitment proceedings.

No juvenile was committed to the Treatment Center during the year. G.L. c. 123A, § 14(d). Likewise, no person deemed incompetent to stand trial in the underlying criminal case was civilly committed to the Treatment Center during the year. G.L. c. 123A, § 15. In February 2009, the Supreme Judicial Court released its decision in *Kenniston v. Department of Youth Services*, 453 Mass. 179 (2009). The Supreme Judicial Court declared the statute permitting continued custody for juveniles past age 18 if release would be dangerous to the public, unconstitutional. This decision means that the District Attorneys will not be able to defer to the so-called "extension" process before seeking to commit someone as SDP who is coming out of DYS custody at age 18.

Since *Kenniston* was decided, some males who had been adjudicated delinquent by reason of a sexual offense and who had reached the age of eighteen were temporarily committed to the Department's custody pending SDP commitment proceedings.

On September 29, 2010, a Superior Court judge found probable cause to believe that a female who had been adjudicated delinquent by reason of a sexual offense and who had reached the age of eighteen is a sexually dangerous person. Pursuant to the provisions of G.L. c. 123A, § 13(a), the judge ordered this

female committed to the branch of the Treatment Center at MCI-Framingham for evaluation by two Qualified Examiners.²

² As stated in the Annual Report of the Massachusetts Treatment Center for Sexually Dangerous Persons dated November 1, 2000 ("2000 Annual Report"), on December 21, 1999, the Commissioner of Correction, pursuant to his authority under G.L. c. 123A, § 2 and G.L. c. 124, § 1(a), established a branch of the Massachusetts Treatment Center for Sexually Dangerous Female Offenders at MCI-Framingham. See 2000 Annual Report, pp. 10-11.

III. THE DEPARTMENT'S OBLIGATIONS UNDER G.L. C. 123A

A. Initial Commitment Proceedings Pursuant to G.L. c. 123A, §§ 12(e), 13(a) and 14(d).

As described in detail in the 1999 Plan, the Department and the Treatment Center remain committed to the successful implementation of G.L. c. 123A. The Department has established an effective and timely process to notify the Attorney General's office and the various District Attorneys' offices of the impending release of inmates subject to potential commitment as sexually dangerous persons. Pursuant to G.L. c. 123A, § 12(a), the Department reviews the records of all inmates in its custody and identifies those convicted of the sexual offenses listed in G.L. c. 123A, § 1. The Department then provides the District Attorneys' offices with written notice of the inmate's discharge date and other documentation so that the District Attorneys can decide whether to file a petition for civil commitment pursuant to G.L. c. 123A, § 12(a).

Pursuant to G.L. c. 123A, §§ 12 and 13, the Department provides the District Attorneys' offices with all records, files, and information that it can lawfully provide.

When the Superior Court orders that an inmate be temporarily committed to the Treatment Center pending a probable cause determination pursuant to G.L. c. 123A, § 12(e), or orders that the inmate be committed to the facility for a 60 day observation period pursuant to G.L. c. 123A, § 13(a), the temporarily committed individual is oriented to the operation of the facility and educated as to its rules and regulations. The Treatment Center administration remains committed to responding in a proactive and efficient manner to developments arising during the implementation of c. 123A. Temporarily committed individuals have been and continue to be effectively managed in accordance with the 1999 Plan and subsequent Annual Reports. These individuals receive access to facility programs, services, and treatment, as well as visitation with family members and legal representatives. The administration and staff of the Treatment Center continue to strive towards the appropriate management and treatment of those persons identified as possibly sexually dangerous as well as those committed under G.L. c. 123A.

After persons are found sexually dangerous and civilly committed to the Treatment Center, they are scheduled to meet with a therapist within two business days. They are offered the

opportunity to enroll in an orientation group. The Treatment Center transfers new SDPs to an existing SDP housing unit upon completion of the orientation process and availability of bed space in an appropriate housing unit.

Through its contract for the delivery of psychological forensic services with Forensic Health Services ("FHS"), originally entered in October, 2000, the Department coordinates the statutorily mandated evaluations of sex offenders for initial commitment and discharge proceedings. Chapter 123A requires that two Qualified Examiners evaluate the sex offender in connection with the initial commitment petition pursuant to G.L. c. 123A, § 13(a), and any petition for discharge pursuant to G.L. c. 123A, § 9. The Community Access Board ("CAB") is required to evaluate those sex offenders who have been adjudicated as sexually dangerous annually. G.L. c. 123A, § 6A. The CAB sometimes evaluates a SDP more than once annually if the SDP has filed a petition for discharge pursuant to G.L. c. 123A, § 9.

B. Discharge Proceedings - G.L. c. 123A,
§ 9 Petitions.

The Department's Legal Division continued to represent the Commonwealth in G.L. c. 123A, § 9 proceedings during 2010.³ As of October 12, 2010, the Treatment Center Legal Office received 54 new G.L. c. 123A, § 9 petitions for discharge in 2010.

The Unified Session at Suffolk Superior Court scheduled 63 petitions for trial in 2010. Section 9 trials were held in Suffolk Superior Court or Middlesex Superior Court. The Unified Session continues to be managed in the Suffolk Superior Court.

As of October 15, 2010, 30 of these petitions were heard by juries. In 22 cases, the jury concluded that the petitioner remained sexually dangerous. In seven cases, the jury concluded that the petitioner was no longer sexually dangerous. In one case, the jury was unable to reach a verdict and the case ended in a mistrial. This case has not yet been retried.

Eleven of the petitioners withdrew their § 9 petitions before trial as of October 15, 2010. In six cases, the trials were continued and these cases were not tried as of October 15, 2010. Nine additional cases are scheduled to begin between October 18 and December 31, 2010.

In seven other instances, the cases were heard jury-waived because the Commonwealth lacked sufficient expert evidence to proceed to trial. In these cases, the judge determined that the petitioner was no longer sexually dangerous as required by the Supreme Judicial Court's decision in *Johnstone, petitioner*, 453 Mass. 544 (2009). In *Johnstone*, the Court concluded that, in order to proceed to trial, the Commonwealth must have the opinion of at least one of the two qualified examiners that the petitioner is a sexually dangerous person. *Johnstone*, 453 Mass. at 553. This ruling applies to both initial commitment petitions managed by the District Attorneys' offices and Section 9 trials managed by Department attorneys based at the Treatment Center. *Id.*

³ In addition to representing the Commonwealth in these § 9 cases, the Treatment Center Legal Division provides in-house legal advice to the Department and the Treatment Center administration. The Treatment Center Legal Division also represents Treatment Center and other DOC employees in civil rights litigation brought by SDPs, temporarily committed individuals and inmates in the state and federal courts.

IV. ACCOMPLISHMENTS AND CHANGES SINCE NOVEMBER, 2009

In addition, the Treatment Center achieved the following accomplishments and significant events since the filing of the 2009 Annual report:

- The Treatment Center and the Department of Correction continue to make significant efforts with reentry opportunities for offenders. A classification staff member was designated as the "Housing Search Specialist." This staff member will work with the Department's Reentry Division to establish relationships with outside social service groups in an effort to improve and increase post-release housing placements. During the summer of 2010, representatives from the Lawrence Regional Reentry Center, Mass Health and Alcoholics Anonymous participated in reentry presentations for offenders.
- The Department and the Sex Offender Registry Board continue to collaborate to provide sex offender registration hearings. In December 2009, video conferencing facilities were installed in the Treatment Center's visiting room conference room. Since that time, the Sex Offender Registry Board hearings have been conducted on a weekly basis.
- In the Library, six (6) law library work stations were installed to give offenders access to a Lexus/Nexus law program via computer. In February 2010, a renovation of the library was completed.
- On March 15, 2010, Michael Corsini began as the Superintendent of the Massachusetts Treatment Center. Superintendent Corsini has worked for the Department since 1979, and was the Superintendent of Bay State Correctional Center from November 2002 until March 2010.
- The Treatment Center implemented the Department's Informal Complaint procedure during this period. Most complaints may be addressed through this process. SDPs and inmates are not obligated to utilize the informal process and may opt instead to use the formal grievance system.
- The Department conducted an audit of the Sex Offender Treatment Program with Forensic Health Services achieving 96% compliance with contractual requirements.

V. CONCLUSION

The Department of Correction continues to operate the Treatment Center as a facility geared to delivering state-of-the-art sex offender services to its unique population, whether they are civilly committed sexually dangerous persons or state prison inmates. During the year 2010, the Department received new temporarily committed individuals and new SDPs and provided them with services in a safe and secure setting conducive to providing treatment and protecting the public.