

## I. INTRODUCTION

The Department of Correction (Department or DOC) submits this annual report pursuant to M.G.L. c. 123A, § 16, which requires that the Department annually prepare a report that describes the treatment offered to persons civilly committed as sexually dangerous persons (SDPs).

Specifically, 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 M.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, M.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 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 confined at the Massachusetts Treatment Center for Sexually Dangerous Persons (Treatment Center or MTC), 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 2020; (b) modifications to the 1999 Plan; (c) the manner in which the Treatment Center satisfied its obligations under M.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.<sup>1</sup>

As reported in prior annual reports, Treatment Center and Department staff have continued to work cooperatively with other agencies including the Department of Mental Health, the Department of Developmental Services and Probation Department to facilitate re-entry planning and appropriate placements for releasing inmates and civilly committed individuals.

## II. THE TREATMENT CENTER'S CIVILLY COMMITTED POPULATION

As of October 1, 2020, 131 individuals were civilly committed as SDPs to the Department's custody. All of the data that follows in this section is as of October 1, 2020.

Of these 131 SDPs, 26 individuals remain committed under the pre-1990 version of G.L. c. 123A. In addition, 105 SDPs committed under the 1999 amendments to M.G.L. c. 123A remain civilly committed.

Six SDPs have been transferred to other DOC facilities pursuant to the provisions of M.G.L. c. 123A, § 2A.<sup>2</sup> Four SDPs are receiving care at other facilities.

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<sup>1</sup> 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 may voluntarily participate in the Department's sex offender treatment program at the Treatment Center, North Central Correctional Institution at Gardner (NCCI-Gardner), Old Colony Correctional Center (OCCC), or MCI-Framingham (female offenders).

<sup>2</sup> Massachusetts General Laws c. 123A, § 2A provides, in pertinent part, that an individual "who has been committed as sexually dangerous and who has also been sentenced for a criminal offense and said sentence has not expired may be transferred from the treatment center to another correctional institution designated by the commissioner of correction. In determining whether a transfer to a correctional institution is appropriate the commissioner of correction may consider the following factors: (1) the person's unamenability to treatment; (2) the person's unwillingness or failure to follow treatment recommendations; (3) the person's lack of progress in treatment at the center or branch thereof; (4) the danger posed by the person to other residents or staff at the Treatment Center or branch thereof; [and] (5) the degree of security necessary to protect the public." As required by M.G.L. c. 123A, § 2A, the Department has promulgated regulations establishing a transfer board and procedures governing the transfer process. See 103 CMR 460, Transfer Procedures for the Massachusetts Treatment Center. The statute also requires that individuals transferred pursuant to this statutory provision be offered a program of voluntary treatment services and be evaluated annually and a report be prepared which report shall be admissible in any hearing conducted pursuant to M.G.L. c. 123A, § 9. A transfer does not vacate the

Forty-one 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. M.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. M.G.L. c. 123A, § 15.

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

#### **A. Initial Commitment Proceedings Pursuant to M.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 M.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 M.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 M.G.L. c. 123A, § 1. The Department then provides the Attorney General's office and 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 M.G.L. c. 123A, § 12(a).

Pursuant to M.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 M.G.L. c. 123A, § 12(e), or orders that the inmate be committed to the facility for a 60-day observation period pursuant to M.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. As discussed below, changes were made due to the COVID-19 (coronavirus) pandemic. The administration and staff of the Treatment Center continue to strive toward the appropriate management and treatment

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SDP commitment. The statute mandates that the individual be returned to the Treatment Center upon completion of the criminal sentence.

of those persons identified as possibly sexually dangerous as well as those committed under M.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 participate in treatment.

#### B. Forensic Evaluations for SDP Proceedings

Chapter 123A requires that two qualified examiners (QEs) evaluate the sex offender in connection with the initial commitment petition pursuant to M.G.L. c. 123A, § 13(a), described above, and any petition for discharge pursuant to M.G.L. c. 123A, § 9, described below. When a court orders QE evaluations, the Department, through a contract with a vendor, coordinates the evaluations of persons for the initial commitment proceedings and the discharge proceedings.

The Community Access Board (CAB) is a five-member board that includes three Department employees and two consulting members. See M.G.L. c. 123A, §§ 1, 6A. Pursuant to M.G.L. c. 123A, § 6A, the CAB is required, on an annual basis, to evaluate those persons who have been adjudicated as sexually dangerous and committed to the Treatment Center. The CAB sometimes evaluates an SDP more than once annually if the SDP has filed a petition for discharge pursuant to M.G.L. c. 123A, § 9 and an updated report is needed.

#### C. Discharge Proceedings – M.G.L. c. 123A, § 9 Petitions

The Department's Legal Division continued to represent the Commonwealth in M.G.L. c. 123A, § 9 proceedings during 2020.<sup>3</sup> Between January 1 and October 1, 2020, the Treatment Center Legal Office received twelve new M.G.L. c. 123A, § 9 petitions for discharge.

The Unified Session at Suffolk Superior Court continues to manage the M.G.L. c. 123A, § 9 petitions for trial. Section 9 jury trials were held in the Suffolk Superior Court between January and March 14, 2020, when the Supreme Judicial Court postponed all trials due to the COVID-19 (coronavirus) pandemic. As of October 1, 2020, jury trials had not resumed in the Superior Court.

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

Between January and March 14, 2020, six cases were heard by juries. In five of those cases, the jury concluded that the petitioner remained sexually dangerous. In the other case, the jury concluded that the petitioner was no longer sexually dangerous.

As of October 1, 2020, five petitioners withdrew their § 9 petitions (three of the withdrawals occurred in 2019; two occurred in 2020). In two instances, the court continued the trials of petitions, which were not reached for trial before the pandemic-related postponement of trials. One petition was dismissed before the start of the year.

As of October 1, 2020, in seven other instances, the Commonwealth could not proceed to trial under 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.* In these cases, the judge entered an order allowing the petition for discharge.

#### **IV. OPERATIONAL CHANGES IN RESPONSE TO THE COVID-19 PANDEMIC**

On March 10, 2020, Governor Baker declared a State of Emergency due to the due to the COVID-19 (coronavirus) pandemic.

The Department's responses to the COVID-19 pandemic have been extensively detailed in numerous publicly available documents. Some details of the Department's response at the MTC follow.

On March 20, 2020, the MTC had its first confirmed COVID-19 inmate diagnosis.<sup>4</sup> As a result, the MTC implemented lock-in procedures and dedicated a unit for placement of offenders who were diagnosed with the virus or required quarantine while being tested. The DOC's response to COVID-19 at the MTC included proactive changes to training, policy, and practice, consistent with and responsive to public health guidance from the Department of Public Health and the Centers for Disease Control. Along with its core mission to provide for the care, custody, treatment and rehabilitation of offenders at the MTC, the DOC's response to COVID-19 had three primary objectives: (1) to minimize opportunities for the virus to enter the MTC; (2) to suppress its spread inside the MTC; and (3) to provide adequate testing to identify, and medical care to treat, offenders who contracted the virus.

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<sup>4</sup> The Department has regularly reported the number of COVID-19 positive cases. This information is detailed in the weekly Special Master's Weekly Reports to the Supreme Judicial Court, in *CPCS v. CJTC* (SJC-12926), available at <https://www.mass.gov/doc/sjc-12926-special-masters-weekly-report-10012020>.

The DOC provided personal protective equipment (PPE) necessary to ensure the safety of staff and offenders at the MTC. MTC staff undertook extensive efforts to disinfect the facility and to make cleaning supplies, soap, and isopropanol-based hand sanitizer available to offenders. Wellpath, DOC's contractual clinical services provider,<sup>5</sup> has provided and continues to provide COVID-19 testing for offenders and their close contacts. All offenders housed at the MTC were offered testing in April 2020. Additional testing has been conducted as needed. In addition, Wellpath also conducted spot testing of the MTC population on October 13, 2020. The testing has bolstered the DOC's ability to make informed, data-driven decisions, ensure that appropriate steps are taken to medically isolate individuals who are sick, and provide medical care for those offenders who need it.

All persons entering the facility are screened and have been directed to wear appropriate PPE.

Throughout the pandemic, medical and mental health care has been provided to the residents. Meals were delivered to the residents in their cells. Each cell in the main facility where residents are housed has a toilet and sink. Laundry was provided on the same schedule that was in place before the pandemic.

On April 10, 2020, the DOC announced the implementation of additional measures to ensure attorney communication with clients in DOC's custody during the pandemic. These measures include a standard and centralized process for attorneys to change telephone numbers listed on the Inmate Calling System and a method for attorneys to get a message to clients in DOC's custody. These changes were made in recognition of the fact that, during the pandemic, some attorneys were working remotely and, thus, using cell phone numbers or home phone numbers rather than their office phone numbers.

Various activities have been expanded or resumed in a manner that provides for social distancing. Beginning on May 11, 2020, the MTC began an open air program through which residents were offered yard time.

Residents are also offered tier time. As of the week of September 27, 2020, residents have tier time on their units, generally scheduled for three hours per day, seven days per week.

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<sup>5</sup> As noted in prior annual reports, following a competitive public procurement process, the Department awarded its contract for comprehensive health services to the Massachusetts prison population to Correct Care Solutions (CCS), which has since changed its name to Wellpath. The five-year contract term began on July 1, 2018. The Department, at its option, may exercise up to two renewals, each of which is up to two years in duration.

Some resident workers have returned to their jobs on a limited basis, including in the following areas: kitchen, unit and corridor cleaning, laundry, grounds, property, industries, barbershop, maintenance, canteen, and environmental health and safety.

To ensure access to courts, a special legal photocopying procedure was put into place on March 25, 2020. Since approximately May 7, 2020, residents have had access to the law library at the MTC by request. As of September 8, 2020, the institutional librarian resumed a full-time schedule.

As of June 18, 2020, in-person attorney visits, which had been temporarily suspended on March 21, 2020 at the MTC, were reinstated. Effective July 20, 2020, the DOC implemented a mechanism for attorney video visits at the MTC during the pandemic. Residents have been able to make telephone calls<sup>6</sup> and to send and receive mail by the United States Postal Service and to send and receive e-mails on personal tablets.

In-person visits by outside medical and mental health professionals were reinstated as of June 22, 2020. Effective July 2, 2020, the DOC implemented a process for experts to conduct interviews by videoconference at the MTC during the pandemic.

In July 2020, chaplains were on site at the MTC on a part-time basis. As of September 1, 2020, chaplains resumed a full-time schedule. Chaplains provide 1:1 spiritual counseling.

Effective the week of September 14, 2020, educational and vocational programming resumed in modified form. The reopening includes academic programs, building trades (wood shop), and the culinary program.

Effective September 28, 2020, general visits (that is, non-professional visits, such as family and friends), which has been suspended on March 12, 2020, resumed at the MTC by appointment. See <https://www.mass.gov/news/doc-implements-health-protocols-to-resume-safe-in-person-visits-next-week>.

## **V. Sex Offender Treatment Program (SOTP)**

### **A. Overview**

Among other components, the Department's contract with Wellpath includes the SOTP for SDPs, individuals temporarily committed to the Department's custody who are awaiting SDP commitment proceedings, and inmates. Wellpath has continued to

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<sup>6</sup> Upon the first COVID-19 diagnosis at the MTC on March 20, 2020, telephone access was temporarily suspended while medical staff screened the population for COVID-19. Telephone access was reinstated on March 24, 2020.

subcontract with the Counseling and Psychotherapy Center (CPC) for the provision of the SOTP to state inmates.<sup>7</sup>

In the SOTP available to SDPs, Wellpath continued to incorporate aspects of the Good Lives Model and the risk-needs-responsivity model with a focus on relapse prevention. The SOTP is delivered via a therapeutic community model. As a result, housing assignments are based on level of treatment involvement in addition to security and other considerations. Among other things, the SOTP available to SDPs includes assessment components, group therapy, and psycho-educational classes. To continue to meet the needs of Spanish-speaking participants, Wellpath hired five additional bilingual clinicians. In addition to other training, Wellpath developed a clinical mentoring program through which more senior clinicians are paired with newer clinicians to facilitate staff development and retention.

#### B. SOTP during the pandemic

Because of the need for social distancing, treatment groups and classes were temporarily suspended. Wellpath continued to provide sex offender treatment in modified form throughout the pandemic. While a number of the SOTP clinicians worked remotely from mid-March until June 22, 2020, the mental health clinicians and clinical managers worked on-site for rounds and crisis coverage. Mental health staff conducted clinical rounds twice weekly; SOTP clinicians conducted weekly rounds. Some details of the modified SOTP follow.

During the week of March 16, 2020, the SOTP Team distributed initial treatment packets and assignments to civil program participants. The civil program participants were given a packet asking them to outline and examine what skills they have learned and how they viewed their progress in SOTP in the prior three months. They were also asked to reflect on how they have been applying these skills. This initial packet offered residents the opportunity to address the following treatment targets: treatment engagement, problem solving skills, social influences, and healthy relationships. Civil program participants were offered a special needs treatment packet, if clinically appropriate (based on treatment track). Civil program participants were provided assignments in which they were encouraged to identify a current event. The questions in the assignment gave participants the opportunity to practice perspective taking, develop concern for others and concern for the community. They were also asked to identify how their own belief systems influence their concern for others and their perspective on the current event.

During the week of April 6, 2020, additional SOTP assignments were provided to the civil program participants focusing on treatment targets and psycho-educational

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<sup>7</sup> Effective July 1, 2018, the QE and consulting CAB member services are part of the Department's contract for comprehensive health services to the Massachusetts prison population. Wellpath has continued to subcontract with CPC for the provision of the QE and consulting CAB member services.

components of the program. The factors to be addressed in these assignments included effective communication, restructuring cognitions, healthy coping skills, thinking patterns, and core beliefs associated with offending.

As appropriate, civil program participants were also provided opportunities to give written feedback on their treatment progress over the annual review period in order to incorporate their perspective on the annual treatment reviews (ATRs). They were provided with four questions eliciting their perspective on how they viewed their progress over the past year, treatment goals for the future, current job status, and release plans. Treatment staff incorporated this feedback into the ATRs. When clarification was needed or the individual had difficulty writing, treatment staff reviewed these questions with residents.

During the period of April 13, 2020 through April 30, 2020, civil program participants were given assignments based on individualized treatment targets identified in their most recent care plans or assessments. Specifically, civil program participants received individualized treatment assignments to continue to work on their dynamic risk factors and issues related to treatment response.

During the week of April 13, 2020, civil program participants were given a packet of assignments related to core beliefs, thinking errors, and identification of feelings. Starting the week of April 13, 2020, *Thinking for a Change* materials were distributed and collected for feedback.

During the week of April 20, 2020, civil program participants were given a second special needs packet, for appropriate participants.

Starting the week of April 27, 2020, pre-recorded psycho-educational classes on DVDs were shown throughout the institution. Almost all of the psycho-educational classes were adapted to this remote learning model. The classes were offered in English and Spanish. The class offerings included roots of aggression, boundaries, cognitive restructuring, cognitive problem solving, effective interpersonal communication, emotional tolerance and management, healthy interpersonal relationships, understanding pathways to offending, understanding pathways to offending (modified), and understanding substance abuse. A mental health class, art and mindfulness as coping, was also added. Each participant who submitted the course homework packet received feedback and a course evaluation. Those participants who needed to orally present material (for example, due to an inability to write), were invited to do so during clinical rounds.

Treatment packets and assignments were distributed in both English and Spanish. Special needs versions of the packets were also distributed to those who may struggle with the conventional packet. Treatment work was collected; therapists provided feedback on the collected work. Treatment materials were developed based on the goal of having participants spend approximately the same amount of time working on treatment as if they were able to attend groups and classes. Participants

were offered a total of seventeen different packets related to the treatment model as well as assignments related to individual treatment targets.

Additionally, the mental health (MH) team provided MH Treatment packets (for those who are literate and illiterate). These packets included exercises related to emotional tolerance, challenging negative thoughts, healthy coping skills, and expressive arts outlets.

Beginning the week of June 22, 2020, the SOTP clinicians began individual treatment sessions with civil program participants. Generally, the individual treatment sessions were scheduled twice monthly and designed to address the participant's individual treatment targets.

Beginning on September 21, 2020, the SOTP groups resumed. As a result, the individual sessions were discontinued. Group sizes were adjusted to provide for social distancing within the various spaces used for clinical programming. Groups have a maximum of six participants.

## **VI. ADDITIONAL UPDATES**

- MTC staff members continue to participate in training in several areas including, but not limited to, sex offender treatment and mental health issues to facilitate communication between clinical and security staff and assist with continuity of care, environmental health and safety, the Prison Rape Elimination Act (PREA), and Department policies and procedures.
- In conjunction with the Department's Reentry Services Division, MTC staff members continue to collaborate with the Probation Department in the affixing of GPS monitors at the facility prior to the release from custody of those individuals who are subject to GPS monitoring as a condition of probation.
- To decrease the chance of a successful suicide attempt or self-injurious behavior, the MTC obtained 12 "short" blankets to be used in the restrictive housing unit for individuals who are serving disciplinary detention or on mental health watches.
- During the week of September 21, 2020, the American Correctional Association (ACA) conducted an audit of the MTC. The MTC achieved 100% compliance with all ACA mandatory standards and 99.76% compliance with non-mandatory standards. As a result, the Department anticipates that the MTC will receive reaccreditation from the Commission on Accreditation in 2021.

## **VII. CONCLUSION**

The Department of Correction continues to operate the Treatment Center as a facility geared to deliver state-of-the-art sex offender services to its unique population. During

the year 2020, 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. The Department also adapted its operation of the MTC to continue to provide for care, custody, treatment, and rehabilitation during the pandemic.