

Department of Correction
Report of the Massachusetts Treatment
Center for Sexually Dangerous Persons

Calendar Year 2023



Executive Office of Public Safety and Security
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I. INTRODUCTION

The Massachusetts 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. Subsequently, 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 2023; (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 2023; and (d) the treatment and rehabilitative services delivered to the civilly committed SDPs

confined to the Treatment Center over the past year.¹

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 the Probation Department to facilitate re-entry planning and appropriate placements for releasing incarcerated individuals and civilly committed individuals.

II. THE TREATMENT CENTER'S CIVILLY COMMITTED POPULATION

As of October 6, 2023, 100 individuals were civilly committed as SDPs to the Department's custody. The data that follows in this section is as of October 6, 2023.

Of these 100 SDPs, fifteen individuals remain committed under the pre-1990 version of M.G.L. c. 123A. In addition, eighty-five 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.² Three SDPs are receiving care at other facilities.

Sixteen individuals were temporarily committed to the Treatment Center pending resolution of civil commitment proceedings. One of these individuals is undergoing

¹ The Treatment Center has traditionally referred to its civilly committed population as "residents." Persons who are serving state prison sentences, who are not civilly committed, are referred to as "incarcerated individuals." Incarcerated individuals may voluntarily participate in the Department's sex offender treatment program. Sex offender treatment is available at the Treatment Center, North Central Correctional Institution at Gardner (NCCI-Gardner), Old Colony Correctional Center (OCCC), and MCI-Framingham (female offenders). Placement is determined by a combination of clinical appropriateness, as well as safety and security concerns.

² 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, be evaluated annually, and a report be prepared which shall be admissible in any hearing conducted pursuant to M.G.L. c. 123A, § 9. A transfer does not vacate the SDP commitment. The statute mandates that the individual be returned to the Treatment Center upon completion of the criminal sentence.

evaluation at Bridgewater State Hospital in accordance with a court order issued pursuant to M.G.L. c. 123, § 18(a).

No juvenile was committed to the Treatment Center during the year 2023 pursuant to M.G.L. c. 123A, § 14(d). 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 incarcerated individuals subject to potential commitment as sexually dangerous persons. Pursuant to M.G.L. c. 123A, § 12(a), the Department reviews the records of all incarcerated individuals 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 incarcerated individual'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 incarcerated individual 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 incarcerated individual 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 M.G.L. 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 novel coronavirus (COVID-19) pandemic. The administration and staff of the Treatment Center continue to strive toward the appropriate management and treatment of those persons identified as possibly sexually dangerous as well as those committed under M.G.L. c. 123A.

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 that QEs conduct 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 2023.³ Between January 1, 2023 and October 6, 2023, the Treatment Center Legal Office received fourteen 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 discharge petitions through trial.

Between January 1, 2023 and October 6, 2023, eleven jury trials were held. In eight of these cases, the jury returned a verdict that the petitioner remained sexually dangerous. In two of these cases, the jury returned a verdict that the petitioner was no longer a sexually dangerous person. One case ended in a mistrial when the petitioner became ill during the trial. Four Section 9 petitions are scheduled to commence between mid-October and December 2023.

The Court postponed the trials of six petitions which were not resolved as of October 6, 2023. As of October 6, 2023, three petitioners withdrew their petitions for discharge; the Court dismissed three other petitions.

As of October 6, 2023, in nineteen other instances, the Commonwealth could not proceed to trial under the Supreme Judicial Court's decision in *Johnstone, petitioner*,

³ In addition to representing the Commonwealth in M.G.L. c. 123A, § 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 incarcerated individuals in the state and federal courts.

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, then Governor Baker declared a State of Emergency due to the COVID-19 pandemic. The State of Emergency concluded on June 15, 2021.

The Department's responses to the COVID-19 pandemic have been extensively detailed in numerous publicly available documents. Although the federal and state governments declared the pandemic to be over as of May 11, 2023, the Department continues to receive guidance from the Office of the Ombudsman concerning COVID management.

As a result of the end of the pandemic, facility operations have expanded in several areas:

- Staff, residents, and incarcerated individuals continue to be offered the opportunity to be vaccinated. Residents and incarcerated individuals may request to receive a vaccine or a booster by submitting sick slips or by making an in-person request to medical staff.
- Activities and programming resumed normal, pre-pandemic, operations.
- The dining hall reopened for meal periods for residents and incarcerated individuals.
- Residents and incarcerated individuals are offered two in-person visitation sessions weekly with friends and family. Visitors are no longer required to submit to COVID testing prior to visits. Visitors are no longer required to schedule their visits in advance. Visits are no longer limited to one hour.
- In addition to in-person visits, residents and incarcerated individuals are offered the opportunity to participate in video visits with friends and family up to three times per week by appointment.
- In-person attorney visits are available. In-person visits by outside medical and mental health professionals are available by appointment. There is no limit on the number of in-person attorney or outside medical and mental health professional

visits that a resident or incarcerated individual may have per week. In addition, the DOC has continued to make videoconference visits available by appointment to attorneys and outside medical and mental health professionals.

- The education program, Spectrum program, Culinary Arts program, and volunteer programs are in operation.
- The institutional library is open five days per week.
- Residents have daily access to the yard, weather permitting. Sessions in the indoor gym are scheduled for each population (residents and incarcerated individuals).
- Chaplain services are available. Three chaplains conduct services/education at least twice per week.
- Consistent with guidelines issued by the Centers for Disease Control and Department of Public Health, the MTC had previously designated the C-1 Unit as the medical isolation unit and the C-2 unit as the medical quarantine unit. Currently, the B-1 unit is designated as the medical isolation unit and the B-2 unit is designated as the medical quarantine unit. Persons housed on these units are kept separate and apart from the general population and are offered daily time out of cell during which they may use the phone, clean their cell, shower, and use the yard.
- All resident work assignments and industries are running, including the barber shop.

V. Sex Offender Treatment

A. Overview

Among other components, the Department's contract with Wellpath for clinical services includes sex offender treatment for SDPs, individuals temporarily committed to the Department's custody who are awaiting SDP commitment proceedings, and incarcerated individuals. Wellpath previously subcontracted with another entity, Counseling and Psychotherapy Center (CPC), for the provision of sex offender treatment to incarcerated individuals. In the summer of 2021, Wellpath assumed responsibility for all sex offender treatment services for persons committed to the Department's custody.⁴

⁴ 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 subcontracted with CPC for the provision of the QE and consulting CAB member services until July 23, 2021. From July 24, 2021 until June 30, 2023, Wellpath

Wellpath has continued to incorporate aspects of the Good Lives Model and the risk-need-responsivity model with a focus on relapse prevention. Sex offender treatment 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, sex offender treatment available to SDPs includes assessment components, group therapy, and psycho-educational classes.

B. Post-Pandemic Sex Offender Treatment Services

Sex offender treatment services offered to SDPs have returned to pre-pandemic levels in terms of frequency and duration of group sessions, except for the groups modified for individuals with developmental disabilities and other special needs which are held in one-hour sessions twice per week based on the clinical judgment of the treatment providers. SDPs are offered group therapy sessions twice per week for two hours per session. SDPs are also offered the opportunity to participate in (1) a variety of psychoeducational groups focused on skill acquisition; and (2) comprehensive assessments designed to identify the individual SDP's specific treatment needs. Unit community meetings, conducted in a manner consistent with the therapeutic community model of treatment, are in the process of being reimplemented. Interpreter services are available as needed.

SDPs who choose not to participate in the comprehensive treatment program are offered the opportunity to participate in substance abuse psychoeducational group and the release planning psychoeducational group.

Beginning in February 2023, persons temporarily committed pending the disposition of sexually dangerous person petitions have been offered the opportunity to participate in the same amount of group sessions and psychoeducational groups offered to SDPs.

SDPs who are housed at other DOC facilities are offered the opportunity to participate in sex offender treatment. These services are offered either in person or by videoconference.

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.

subcontracted with William James College, Inc., for the provision of the QE and consulting CAB member services. Since July 1, 2023, Wellpath has subcontracted with New England Forensic Associates for the provision of the QE and consulting CAB member services.

- Clinical staff at the MTC are required to complete an internal certification program consistent with standards set forth by other states and the best practices identified by the Association for the Treatment and Prevention of Sexual Abuse (formerly the Association for the Treatment of Sexual Abusers; ATSA). The certification program requires clinicians to complete 40 hours of didactic instruction related to the core components of sex offender treatment, observe a range of clinical activities, provide clinical services under the observation and direction of seasoned providers, and pass a written exam demonstrating concept mastery.
- 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.

VII. CONCLUSION

The Massachusetts 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. The addition of the internal certification program for clinical staff will facilitate the goal of delivering state-of-the-art sex offender services. During the year 2023, the Department continued to adapt its operation in response to the end of the COVID-19 pandemic by expanding group sessions and other services such as the library and religious services available to SDPs.