

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASSIE CORDELL TRUEBLOOD, next
friend of A.B., an incapacitated person, et al.,

Plaintiffs,

v.

THE WASHINGTON STATE
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, et al.,

Defendants.

NO. 2:14-cv-1178 MJP

DECLARATION OF CARLA
REYES

I, Carla Reyes, am over the age of 18 years of age, competent to testify to the matters below, and declare based upon personal knowledge:

1. I am assistant secretary for the Behavioral Health Administration (BHA) of the Department of Social and Health Services (DSHS). I am an authorized representative of the Department of Social and Health Services.

2. As assistant secretary, I am responsible for the delivery of prevention, intervention, inpatient treatment, outpatient treatment and recovery support to people with mental health and substance use disorder needs. I am responsible for the operation of the three state hospitals, which includes oversight of hospital policies, procedures, and practices

1 to ensure they are aligned with DSHS policies and applicable state and federal laws
2 pertaining to health care facilities. I am also accountable for managing operational issues
3 that cross the divisions within my Administration, strategic planning, performance
4 management, quality assurance, and risk management. I joined the Department of Social and
5 Health Services in 1997, and prior to joining BHA, I served as the Director of Planning and
6 Performance.
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8 3. At the time of trial, there were no alternatives to competency restoration
9 treatment other than that which was provided in the state hospitals. Following the trial in this
10 case, looking at trends and considering the need to respond quickly to this Court's April 2,
11 2015 order, the Department determined there was not sufficient capacity within the two state
12 hospitals to support a 90 bed expansion by January 2, 2016. As detailed in the Long Term Plan
13 submitted to the Court on July 2, 2015, in order to meet growing demand over time and to
14 accomplish the ambitious goal of providing restoration treatment within seven days of a court
15 order being signed, DSHS had to look beyond its own state hospitals to expand these services.
16 In the short-term this was intended to include up to 30 beds for competency restoration
17 treatment outside the state hospitals while the Department continued development of additional
18 resources at state facilities.
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20 4. The time to build new wards at either state hospital was not possible within the
21 timeline to achieve compliance with the Trueblood order. For instance, the Department's
22 2015-2025 Capital Budget plan includes the addition of two forensic wards at Western State
23 Hospital at a total estimated cost of over \$45 million. This is a multi-stage process including
24 predesign, design, and construction. Predesign was estimated to last until March 2016, design
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1 to last until June 2017, and construction not to be completed until June 2019. The Department
2 determined the wait for additional physical capacity at the state hospitals was too long to meet
3 the court ordered timelines.

4 5. DSHS is authorized by state statute to develop alternative locations for
5 competency restoration. Opening new locations for competency restoration treatment outside
6 of the state hospitals can ease the current burden on the state hospitals and free space for in-
7 custody individuals awaiting competency services faster than building new wards or building
8 on the existing campuses.

9 10 6. DSHS intends to maximize the use of state hospital beds to meet the seven-day
11 competency services standard. However, given limits on existing physical bed capacity and
12 challenges of recruiting state hospital staff, the offsite competency restoration program at
13 YCCC was determined to be a solution that would provide appropriate and therapeutic
14 competency restoration services by a well-established and respected local mental health
15 provider to class members much more quickly than building new wards or facilities on the
16 existing state campuses. The facility at YCCC did not need to be built from the ground up,
17 rather it required renovation to create the appropriate milieu.

18 19 7. DSHS underwent an extensive and careful process to identify the
20 appropriate contractor to provide services at an alternate facility. In June 2015, the Department
21 contacted other states operating contracted restoration services and obtained copies of
22 reference materials from California and Colorado. This information was also submitted as part
23 of our June 2015 Monthly Report to the Court Monitor.

1 8. The Department posted a Request for Information (RFI) to obtain
2 information about potential contractual options that would allow Washington to provide up to
3 an additional 30 competency restoration treatment beds, supplementing beds in the State
4 Hospitals. The RFI requested information related to one of three models, but invited
5 submission of information about other models that may be available. The Department received
6 submittals from four interested entities and convened a panel to conduct Vendor interviews on
7 8/5/2015. Based on the feedback of the panel members, one vendor was determined
8 unsuitable, one vendor preferred to provide competency restoration treatment in the jails
9 (which the Department did not want to pursue) and two vendors were determined as potentially
10 viable providers. This information was also submitted as part of our August 2015 Monthly
11 Report to the Court Monitor.
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14 9. At the conclusion of the RFI process, the Department exercised its authority
15 under Revised Code of Washington 39.26 to enter into direct negotiations with Comprehensive
16 Mental Health, a non-profit local community mental health agency.

17 10. Negotiations began in September 2015 with Comprehensive Mental Health
18 to establish a Residential Treatment Facility (RTF) to provide competency restoration
19 treatment for up to 30 patients at the Yakima County Correctional facility. State hospital
20 professionals were engaged in developing referral and other program criteria and consultation
21 regarding medication formularies to be used. Any contract signed would be for one year with
22 possibility for a one year extension. Discussion and planning with Comprehensive included the
23 expectation that trauma informed care (a national best practice for psychiatric hospitals) and
24 the Breaking Barriers program currently used at WSH for competency restoration would be the
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1 same models used in this RTF program. Collaboration will continue to support comparable
2 treatment services and to ensure ongoing quality and oversight as part of DSHS' contract
3 monitoring. This information was also submitted as part of our October 2015 Monthly Report
4 to the Court Monitor

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6 11. On October 22, 2015 a fully executed contract was signed with
7 Comprehensive Mental Health to operate 24 competency restoration treatment beds in Yakima.
8 The facility would require Department of Health review and approval as well as certification as
9 a Residential Treatment Facility by the Division of Behavioral Health and Recovery.

10 12. It is true that having beds outside the hospital became even more critical
11 after the Centers for Medicaid Services actions regarding the hospital in October 2015 resulted
12 in the decision to delay operation of new restoration beds at WSH. However, the plan to open
13 the Yakima program was conceived and implemented well before CMS involvement with
14 WSH. Opening an alternative facility such as the one now operating in Yakima has always
15 been a component of the State's strategy, as noted in the July 2015 Long Term Plan.

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17 13. In developing the program with Comprehensive in Yakima, the
18 Department made every effort to ensure the treatment and programming were consistent with
19 the second guiding principle from its July 2015 Long Term Plan that "changes implemented
20 will maintain or improve the quality of competency treatment services...so timeliness is not
21 gained at the expense of quality." The Department has involved multiple staff, many with
22 clinical or other experience relevant to the development of mental health programs, to assist in
23 the creation of this competency restoration program. Considerable thought, planning and
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1 judgment has gone into its development. Comparability to the treatment provided at the State
 2 hospitals was gained by ensuring Comprehensive's program::


- 3 a. Uses the Breaking Barriers treatment model;
- 4 b. Applies Trauma Informed care approaches; and
- 5 c. Engaged hospital clinical directors throughout planning and development to
- 6 provide review of policies and program elements as well provide training to
- 7 the contractors program staff.
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9 14. The costs of running the Yakima Competency Restoration Program are
 10 different from the costs to run a hospital forensic ward. For fiscal year 2016, YCCRP has an
 11 estimated cost of \$2.2 million. For fiscal year 2017, \$4.5 million. A state hospital ward, by
 12 contrast costs \$5.763 million per fiscal year.

13 15. In alignment with the Departments competency restoration treatment programs
 14 at the state hospitals, the central purpose of the program in Yakima is engaging patients in
 15 active mental health treatment. As required during the contract negotiations, the Yakima
 16 restoration facility is licensed by the Department of Health and has met the state residential
 17 treatment facility standards. The facility is also certified by Division of Behavioral and Health
 18 Recovery as a residential treatment facility. The program run in Yakima by Comprehensive
 19 and the programs run at the state hospitals are provided in secure facilities where staff are
 20 charged with the responsibility of safely containing patients who are actively involved with the
 21 criminal justice system. However, the culture and function of the RTF is vastly different than
 22 that of a correctional facility.
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1 16. The impacts of shuttering the doors to the Yakima program for any period
2 of time would be disastrous. There is no capacity at the state hospitals to make up for the loss
3 of these 24 beds. There is not another state facility at which a competency restoration
4 treatment program can be established. The result will be that the number of class members and
5 the length of time each class member will be waiting for entry into a competency restoration
6 treatment bed will continue to grow. Without the additional beds operated by Comprehensive
7 Mental Health in Yakima, DSHS will not meet the May 27, 2016 deadline to comply with the
8 court's injunction.
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10 Signed this 19th day of March, 2016, at Olympia, Washington.
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14 CARLA REYES
15 Assistant Secretary
16 Behavioral Health Administration
17 Department of Social and Health Services
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CERTIFICATE OF SERVICE

Beverly Cox, states and declares as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 19 day of March 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David Carlson: davide@dr-wa.org

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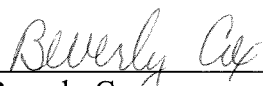
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Christopher Carney: Christopher.Carney@CGILaw.com

Sean Gillespie: Sean.Gillespie@CGILaw.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 19 day of March 2016, at Olympia, Washington.



Beverly Cox
Legal Assistant

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