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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASSIE CORDELL TRUEBLOOD, et
al.,

Plaintiffs,

v.

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

Defendants.

CASE NO. C14-1178 MJP

ORDER ON DEFENDANTS'
MOTION FOR CLARIFICATION
AND RECONSIDERATION

THIS MATTER comes before the Court on Defendants' Motion for Clarification and Reconsideration. (Dkt. No. 140.) Having reviewed Defendants' Motion, Plaintiffs' Response, and all related papers, the Court GRANTS in part and DENIES in part the motion.

First, Defendants argue that the psychiatric and medical good cause exception to the seven-day timeframe, applicable only to in-jail evaluations, should also apply to class members awaiting transport to a state hospital. (Dkt. No. 140 at 2.) The Court agrees with Plaintiffs that failure to obtain medical clearance is the only good cause applicable to class members waiting

1 for transport to state hospitals. (Dkt. No. 145 at 2-3.) Therefore, the Court modifies the
2 permanent injunction to allow for a good cause exception for class members waiting for transport
3 to a state hospital in the limited circumstance where (1) a class member cannot be medically
4 cleared for transport within seven days of the signing of a court order because of the class
5 member's health, and (2) Defendants have a documented history of attempting to timely secure
6 medical clearance.

7 Second, Defendants argue that the seven-day timeframe should begin when DSHS
8 receives a court order, rather than when the court order is signed. (Dkt. No. 140 at 3-4.)
9 Defendants' request is DENIED. The Court is aware that some local courts can take several
10 days to transmit an order to DSHS, and is also aware that the vast majority of orders are
11 transmitted to DSHS within one day of the order being signed. In focusing on the system as it
12 exists now, however, Defendants miss the point.

13 In order to comply with the Court's injunction, Defendants must take on a more active
14 role in educating and collaborating with other actors in the forensic mental health system.
15 Compliance will require Defendants to think creatively and make efforts above and beyond the
16 efforts they were already making. Rather than seeking to extend the amount of time that class
17 members can be incarcerated awaiting services, Defendants should seek to facilitate the
18 development of a system where DSHS receives court orders promptly. In other words, flaws in
19 the system as it currently exists are not persuasive reasons why a better system cannot be
20 developed.

21 Third, Defendants seek clarification about their obligations where DSHS has requested an
22 extension for good cause, but the local court has not yet ruled on the motion by the seventh day.
23 (Dkt. No. 140 at 4-5.) In these circumstances, Defendants should admit the class member to a
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1 state hospital. Again, Defendants must work to improve the efficiency of the system and
2 safeguard the constitutional rights of class members. Substantial compliance can only be
3 achieved through working with local courts and developing systems and methods through which
4 motions for extensions can be brought and ruled on quickly. Until Defendants have attempted to
5 improve the functioning of the system through collaboration with local courts and other actors,
6 requests for modification are premature. The Court declines to allow class members to be
7 incarcerated for additional time based on now-existing barriers to timely services.

8 Lastly, Defendants argue that they should not have to transport class members who are
9 ordered to receive in-jail evaluations to state hospitals when invocation of the right to have
10 defense counsel present at the evaluation blocks compliance with the seven-day timeframe.
11 (Dkt. No. 140 at 5-6.) Once more, Defendants point to flaws in the current system instead of
12 attempting to develop a better one. If DSHS is unable to accommodate a defense attorney's
13 schedule and still comply with the seven-day timeframe, it should seek more resources and
14 expand services, not seek to incarcerate class members for longer periods of time.

15 If Defendants are still unable to provide in-jail evaluations within seven days after
16 attempting to overcome current barriers to timely services, then the Court will consider
17 modifying the injunction. Until Defendants have made efforts to comply with the injunction—
18 for example by hiring more evaluators, offering evaluations at regular, pre-set times in jails, and
19 offering evaluations outside of court hours and on weekends—Defendants' request is premature
20 and is DENIED.

21 **Conclusion**

22 The Court modifies the permanent injunction to allow for a good cause exception to the
23 seven-day timeframe for class members ordered to receive competency services at state hospitals
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1 | where a class member's health prevents them from being medically cleared to be transported,
2 | despite Defendants' good faith efforts. Defendants' other requests for modification are
3 | DENIED.

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5 | The clerk is ordered to provide copies of this order to all counsel.

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7 | Dated this 6th day of May, 2015.

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Marsha J. Pechman
Chief United States District Judge

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