

**2022 ANNUAL REPORT OF THE MASSACHUSETTS
TREATMENT CENTER FOR SEXUALLY
DANGEROUS PERSONS**

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Submitted November 1, 2022

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 2022; (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 2022; 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 inmates and civilly committed individuals.

II. THE TREATMENT CENTER'S CIVILLY COMMITTED POPULATION

As of September 26, 2022, 123 individuals were civilly committed as SDPs to the Department's custody. The data that follows in this section is as of September 26, 2022.

Of these 123 SDPs, 19 individuals remain committed under the pre-1990 version of M.G.L. c. 123A. In addition, 104 SDPs committed under the 1999 amendments to M.G.L. c. 123A remain civilly committed.

Five SDPs have been transferred to other DOC facilities pursuant to the provisions of M.G.L. c. 123A, § 2A.² Seven SDPs are receiving care at other facilities.

Twenty-nine individuals were temporarily committed to the Treatment Center pending resolution of civil commitment proceedings.

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 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.

No juvenile was committed to the Treatment Center during the year 2022 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 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 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.

After persons are found sexually dangerous and civilly committed to the Treatment Center, 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 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 2022.³ Between January 1, 2022 and September 26, 2022, the Treatment Center Legal Office received 24 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. Due to the COVID-19 pandemic and related court orders restricting jury trials,⁴ Section 9 jury trials were temporarily suspended from early January to mid-February 2022.

Between mid-February and September 26, 2022, 11 jury trials were completed. In each case, the jury returned a verdict that the petitioner remained sexually dangerous. Seven Section 9 petitions are scheduled to commence between mid-October and December 2022.

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 inmates in the state and federal courts.

⁴ See First amendment to seventh updated order regarding court operations under the exigent circumstances created by the COVID-19 pandemic (entered December 31, 2021, effective January 3, 2022); Second amendment to seventh updated order regarding court operations under the exigent circumstances created by the COVID-19 (coronavirus) pandemic (entered and effective January 24, 2022).

The Court postponed the trials of ten petitions which had not been resolved as of September 26, 2022. As of this date, nine petitioners withdrew their petitions for discharge.

As of September 26, 2022, in twelve 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 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. Facility operation continues to be conducted in accordance with public health guidelines. The Department also receives guidance from the Office of the Ombudsman concerning COVID management. The Office of the Ombudsman provides biweekly reports on the Department's COVID-19 mitigation compliance efforts to the Massachusetts State Legislature's Joint Committee on the Judiciary and the Joint Committee on Public Health. Corresponding updates about the MTC follow below:

- Since January 2020, the Department is complying with Executive Order 595 by affording the staff, residents, and inmates the opportunity to be vaccinated. Residents and inmates may request to receive a vaccine or a booster via sick slips or by making an in-person request to medical staff. Additionally, staff and inmate COVID-19 surveillance testing is periodically conducted.
- Various activities have been expanded or resumed in a manner that provides for social distancing. In-person visits for friends and family are available. To accommodate social distancing, inmates and residents are permitted two personal visits per week, by appointment. Hand sanitizing stations are available in the visiting room, visitor processing area, and the visiting room trap. The visiting room is cleaned between visiting periods. Non-attorney visitors undergo COVID testing before in-person visits. Attorneys are encouraged, but not required, to undergo COVID testing before in-person visits.

- In addition to in-person visits, since late December 2020, inmates and residents have been able participate in video visits with friends and family 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 an inmate or resident 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 during 2022.
- The education program, Spectrum program, Culinary Arts program, and volunteer programs are in operation. To permit social distancing, program size is limited to ten persons. Desks are spaced three feet apart.
- The institutional library is open five days per week. To ensure social distancing, up to ten residents may use the library per session. Appointments are scheduled for one-hour blocks, by unit.
- Residents have daily access to the yard, weather permitting. Sessions in the indoor gym are scheduled by unit. Each unit is offered four sessions per week for a total of three hours and 45 minutes.
- Chaplain services are available. Three chaplains conduct services/education at least twice per week. To allow for social distancing, chapel attendance is limited to a total of ten individuals, including the chaplain.
- Consistent with guidelines issued by the Centers for Disease Control and Department of Public Health, the MTC has designated the C-1 Unit as the medical isolation unit and the C-2 unit as the medical quarantine unit. Persons housed on these units are kept separate and apart from the general population and are offered four hours of tier time per day during which they may use the phone, clean their cell, and shower. They are offered one hour of yard time daily.
- All resident work assignments and industries are running. Each resident is verbally screened for COVID-related symptoms each time the resident reports to a work assignment. The barber shop is also operating.

V. Sex Offender Treatment

A. Overview

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

previously subcontracted with another entity, Counseling and Psychotherapy Center (CPC) for the provision of sex offender treatment to inmates. In the summer of 2021, Wellpath assumed responsibility for all sex offender treatment services for persons committed to the Department's custody.⁵

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. Sex Offender Treatment Services During the COVID-19 Pandemic

Wellpath continued to provide sex offender treatment in modified form throughout the pandemic. To allow for social distancing, group therapy sessions for residents have been held in the Learning Center, rather than within the housing units. As of February 28, 2022, psychoeducational group participation was increased to fifteen participants per class. On the same date, the number of participants allowed in each group therapy session was increased to a total of twelve to fifteen participants depending upon the specific location of the session.

As of September 2022, the MTC administration was working with Wellpath staff to resume unit community meetings.

VI. **ADDITIONAL UPDATES**

- The Department has completed a project of having the records of residents, maintained in paper form, scanned and maintained in a cloud-based platform to facilitate the delivery of the records to the QEs, the CAB, and the residents' attorneys, as appropriate in a given case.
- 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

⁵ 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. Since July 24, 2021, Wellpath has subcontracted with William James College, Inc., for the provision of the QE and consulting CAB member services.

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. During the year 2022, the Department adapted its operation of the Treatment Center to continue to provide care, custody, treatment, and rehabilitation during the COVID-19 pandemic, consistent public health guidelines and Executive Order 595, by expanding visits, programming, and other services as detailed in this Report.