

Summary and Key Points

Fourth Report from the Independent Court Monitor (dated March 29, 2024) ***Remick v. City of Philadelphia*, No. 20-cv-1959 (E.D. Pa)**

The Independent Court Monitor (“Monitor”) issued her fourth report evaluating compliance with the settlement in the class action lawsuit, *Remick v. City of Philadelphia*, No. 20-cv-1959 (E.D. Pa.), relating to conditions at the Philadelphia Department of Prisons (“PDP”) through December 31, 2023. In this report, the Monitor notes that PDP remains unable to comply with the vast majority of areas covered under the *Remick* settlement agreement, in large part due to the fact that PDP cannot properly staff its facilities. PDP still does not have a plan for a return to normal, pre-pandemic operations, as required by the Agreement and contemplated by several court orders.

The Monitor explains that “PDP appears to have reached its capacity for interim change and will be unlikely to make additional progress or sustain improvements made thus far. If so, PDP conditions will descend further into constitutional inadequacy and Class Members’ health and safety will continue to decline. Staff will remain in acute fear and the indignity of their working conditions will remain a cultural bar to humane treatment of the 4,700 people confined in PDP facilities.”¹

The class members are represented by the Pennsylvania Institutional Law Project, Kairys Rudovsky Messing Feinberg & Lin, Abolitionist Law Center, and Dechert LLP. The Monitor will produce a fifth report on September 30, 2024.

Overview of the Monitoring Process

The *Remick* settlement agreement between Plaintiffs and the City of Philadelphia requires system-wide reform of PDP, as prescribed in 18 substantive provisions. The Monitor issues regular reports to the Court and attorneys that assess the City’s compliance with each substantive provision of the Agreement. In order to make these assessments, the Monitor makes site visits to PDP facilities; interviews staff, incarcerated persons, and advocates; and reviews policies and procedures at the jails. The Monitor rates the City’s implementation progress and issues “Substantial Compliance,” “Partial Compliance,” or “Non-compliance” findings for each substantive provision. The Agreement requires the City to implement reforms in areas such as staffing, healthcare, mental health, and use of force. The Monitor also makes specific recommendations to improve the City’s compliance with the Agreement where necessary.

Deaths In PDP Custody Increased in 2023

Fourteen people died in PDP custody in 2023, as compared to ten in 2022.² Two of these Class Members died by suicide and at least one was murdered while in custody. Two others died from substance overdose.

¹ Monitor’s Fourth Report at 30-31, *Remick v. City of Philadelphia*, No. 20-cv-1959 (E.D. Pa.), ECF No. 204.

² *Id.* at 37.

PDP’s Staffing Crisis is Worsening and Remains the Largest Factor in PDP’s Failure to Comply with the Settlement Agreement

The report notes that the “PDP will be unable to achieve compliance with the Agreement while its staffing deficit persists,” as “nearly every substantive provision requires additional security personnel to implement.”³ While the City has made efforts to effectuate some of the Monitor’s recommendations to address staff vacancies, regarding other recommendations, “the City appears to have taken little or no action, without explanation, over three reporting periods.”⁴ As a result, “PDP facilities remain unsafe for both staff and Class Members. Frequent staff assaults, fights, stabbings, rampant contraband and extortion, and security breaches have been made possible or exacerbated by the staffing shortage.”⁵ The efforts made thus far by the City “do not reflect the urgency and enormity of its problem and the life-threatening conditions it breeds.”⁶

From June 2023 to December 2023, PDP’s correctional officer vacancies increased by 79 positions, or 4 percent, reaching 48 percent, and the total staff vacancy rate also increased by 4 percent, to 44 percent.⁷ During the last year, PDP’s incarcerated population increased by more than seven percent while security staffing reduced by eight percent.⁸

Out-of-Cell Time Continues to Fall Short of the Minimum Requirements

After years of dealing with the grave effects of near-constant confinement, many Class Members are still not offered out-of-cell time every day. When out-of-cell time is offered, they are frequently not allowed out of their cells for the minimum amount of time required by the Agreement.⁹ In fact, the percentage of people permitted out of their cells for five or more hours a day actually **decreased** during this reporting period.¹⁰ This results in most Class Members spending 20 or more hours a day confined to their cells. Many Class Members are still receiving an hour or less of out-of-cell time a day.¹¹ Particularly at CFCF, “too many Class Members continue to spend at least 23 hours in their cells daily.”¹² The Monitor reports that the lockdowns are due to inadequate staffing.¹³ While some gains have been made in out-of-cell time, the conditions in this reporting period still reflect harmful conditions that inflict immeasurable injury upon Class Members.

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 11.

⁸ *Id.* at 12.

⁹ *Id.* at 19-22.

¹⁰ *Id.* at 20.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 22.

PDP Continues to Completely Deny Many People in Segregation Out-of-Cell Time

The report states that the average percentage of Class Members in segregation units who received no daily out-of-cell time has increased over the last reporting period from 62 percent in June 2023 and November 2023 to 72 percent in December 2023.¹⁴ The report attributes this failure to a lack of staffing and the high number of people in segregation.¹⁵ The report notes that any gains in these areas made since the Monitor’s First Report are wholly insufficient to ensure that the population that remains in segregation has even a minimal amount of time out of their cell to shower and use the phone.¹⁶ The Monitor notes that the “current reality” for those housed in segregation is “spending days at a time isolated in single-person cells.”¹⁷

Class Members are Not Receiving Timely Medical Care

The Monitoring team found that a significant backlog for medical appointments persists, and has even increased during the reporting period, noting that “PDP’s average four-week backlog increased by 269 appointments, or 37 percent, between May/June and November/December 2023.”¹⁸ As of November-December 2023, for on-site appointments, there was a weekly average backlog of 944 appointments.¹⁹ Off-site specialty medical appointments were subjects of long delays for patients who required routine or preventive specialty care and for those “with serious or life-threatening conditions.”²⁰ This significant backlog is also the result of the staffing shortage, especially the shortage of correctional officers. In the last six months of 2023, correctional officer shortages accounted for a monthly average of 151 missed appointments, a 160 percent increase as compared to the first six months of 2023.²¹

The behavioral health appointment backlog is particularly striking. The behavioral health appointments backlog increased and now comprises 18 percent of the entire on-site non-specialist appointment backlog.²² “Average appointment backlog totals for initial psychiatric and medication evaluations for weeks reviewed increased by 105 percent and 74 percent respectively.”²³ Behavioral health staff referrals were completed within required timeframes less than 60 percent of the time.²⁴ The staffing shortage is also to blame for these delays as well, due to a lack of behavioral health staff, as well as the need for more security staff to transport patients to appointments.²⁵

¹⁴ *Id.* at 24.

¹⁵ *Id.*

¹⁶ *Id.* at 28-29.

¹⁷ *Id.* at 24.

¹⁸ *Id.* at 33.

¹⁹ *Id.* at 33.

²⁰ *Id.* at 35.

²¹ *Id.*

²² *Id.* at 37.

²³ *Id.*

²⁴ *Id.* at 39.

²⁵ *Id.*

PDP Remains Dangerously Unsanitary

The Monitor notes that “PDP’s sanitation issues are long standing, progressive, and deeply systemic” and “intersect with dilapidated facilities and inconsistent maintenance and vector control programs that have rendered some neglected units unlivable.”²⁶ There has been little progress in this area and “nearly every sanitation issue reported in the first three reporting periods persisted to an unacceptable degree in this reporting period.”²⁷ The Monitor also notes the particular severity of this problem when people are spending such significant amounts of time in their cells, and attributes this problem to a lack of staffing.²⁸

PDP Staff are Still Using Inappropriate Force Against Class Members

The Monitor explains that “deficiencies with PDP’s use of force policies and practices outlined in the Monitor’s second and third reports persisted in this reporting period.”²⁹ As a result, “PDP’s use of force practices will continue to pose high risk for injury and abuse with limited compliance and accountability.”³⁰ This is partly due to delays in procurement of new technology, but, “delays notwithstanding, implementation of these technologies would require personnel resources that PDP does not currently have. Insufficient staff at all security levels remains PDP’s greatest barrier to correcting deficiencies and PDP appears to lack internal capacity to manage a use of force reform project of this scope and complexity.”³¹ The lack of staff also “results in overcrowding, delayed and withheld services, and extended periods of cell confinement and is too often the root cause of force incidents.”³²

²⁶ *Id.* at 64.

²⁷ *Id.* at 62.

²⁸ *Id.*

²⁹ *Id.* at 65.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 67.