

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) LESLIE BRIGGS, as next friend of T.W. )  
and B.S.; )  
(2) EVAN WATSON, as next friend of C.R.; )  
and, )  
(3) HENRY A. MEYER, III, as next friend )  
of A.M., for themselves and for others )  
similarly situated, )  
)

Plaintiffs, )

v. )

Case No: 23-cv-81-GKF-JFJ

(1) ALLIE FRIESEN in her official capacity )  
as Commissioner of the Oklahoma )  
Department of Mental Health and )  
Substance Abuse Services; and )  
(2) DEBBIE MORAN, in her official )  
capacity as Interim Executive Director of the )  
Oklahoma Forensic Center, )  
)

Defendants. )

**JOINT MOTION FOR PRELIMINARY APPROVAL OF CONSENT DECREE,  
CLASS CERTIFICATION, AND PLAN OF NOTICE TO CLASS**

Plaintiffs and Defendants (jointly referred to as the “Parties”), in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, jointly move the Court for an order: (i) granting preliminary approval of a proposed Consent Decree that (among other things) certifies the Class, appoints Class Counsel, and adopts a remedial Plan to resolve Plaintiffs’ claims herein; (ii) approving the forms and plan of Notice to the Class as defined below; and (iii) setting a hearing sixty (60) days after the Court grants preliminary approval of the Consent Decree and approving Class Notice, for the final approval of the Consent Decree. The proposed Consent Decree, which has been agreed to and finalized by the Parties’ counsel, is attached hereto at Exhibit 1.

## Background

1. The Oklahoma Department of Mental Health and Substance Abuse Services (the “Department”) is obligated under Oklahoma law to provide competency evaluations and restoration treatment for persons found incompetent to stand trial in Oklahoma state court criminal proceedings. *See* 22 O.S. §§ 1175.3, 1175.6a.

2. When an Oklahoma state court determines that a person is incompetent to stand trial because he or she is a “person requiring treatment,” as defined in 43 O.S. § 1-103, but capable of achieving competency with treatment within a reasonable period of time, the state court must suspend the criminal proceedings and order the Department, or its designee, to provide treatment, therapy, or training calculated to allow the person to achieve competency. 22 O.S. § 1175.3.

3. The Oklahoma Forensic Center (“OFC”) in Vinita, Oklahoma is currently the only Department-operated hospital that provides secure, in-patient competency restoration treatment in Oklahoma.

4. On March 1, 2023, on behalf of the Class defined below, four individually named Plaintiffs (through their Next Friends) filed this class action lawsuit under 42 U.S.C. § 1983 against the Department’s Commissioner and the Executive Director of the OFC, in their official capacities. (Doc. 1). Plaintiffs, and the putative Class, were or are pretrial detainees in Oklahoma state court criminal proceedings who had been declared incompetent to stand trial and were or are incarcerated in county jails waiting for the Department to provide restoration treatment. In general, Plaintiffs’ Complaint challenged the length of time the putative class of pretrial detainees are or were forced to wait for the Department to provide restoration treatment while their criminal cases are or were stayed. Plaintiffs alleged, in part, that due to a lack of forensic beds at OFC, the Department maintained a waitlist of Class Members who have waited prolonged periods of time to receive

court-ordered competency restoration treatment. During this waiting period, Plaintiffs alleged that Class Members were or are incarcerated in county jails, where they received little or no treatment to restore competency and their mental health deteriorated. (*See* Doc. 1).

5. In this action, Plaintiffs have alleged that the prolonged waiting periods to receive competency restoration treatment while incarcerated in county jails violated the Class Members' rights: (i) secured under the due process clauses of the Fourteenth Amendment to the United States Constitution and Article 2, Section 7 of Oklahoma's constitution; and (ii) under the Americans with Disabilities Act. (*See* Doc. 1).

6. Plaintiffs seek only injunctive, non-monetary relief, and class certification under Rule 23(b)(2) of the Federal Rules of Civil Procedure.

7. On April 10, 2023, Defendants filed a motion to dismiss. (Doc. 16).

8. Shortly thereafter, the Parties began earnest settlement discussions. Defendants withdrew their motion to dismiss. (Doc. 21). Starting in April 2023, the Parties jointly requested, and the Court granted, a series of stays to facilitate on-going settlement discussions. (*See* Docs. 22, 29, 34, 36, 38, 40). During the approximately one-year period while this case was stayed, the Parties exchanged substantial data and documents, consulted experts, toured the OFC and other facilities, met with numerous stakeholders involved in Oklahoma's competency restoration system, and conducted multiple in-person and videoconference settlement discussions. (*See, e.g.*, Docs. 19, 28, 32, 35, 37, 39).

9. As a result of the Parties' joint discussions and investigation into the Department's competency restoration program, the Parties negotiated, drafted, and agreed to a proposed Consent Decree, which is attached hereto as Exhibit 1. The Consent Decree was finalized and agreed to by the Parties after extensive arm's length negotiations, with Defendants represented by Oklahoma's

Attorney General, and Plaintiffs represented by Class Counsel. Each Party retained independent subject-matter experts to assist and consult in the negotiations and the Consent Decree drafting process. In general, the Consent Decree adopts a strategic “Plan” designed to reform and improve Defendants’ delivery of competency evaluations and restoration treatment to Class Members, including significantly reducing wait times for Class Members in need of restoration treatment.

10. The Parties agree that the proposed Consent Decree is in the best interests of the Parties, the Class, and the public as it provides Defendants the tools and framework to improve substantially the delivery of competency evaluations and restoration treatment for people declared incompetent and awaiting trial while incarcerated in Oklahoma county jails. The Parties acknowledge that Plaintiffs’ claims and allegations in this case are serious and credible, and the proposed Consent Decree resolves Plaintiffs’ claims while avoiding the costs, uncertainties, and risks of protracted litigation, likely saving the Department millions of dollars in legal fees and expenses if the case were litigated to a conclusion rather than resolved by the proposed Consent Decree. The Parties further agree that the proposed Consent Decree is fair, adequate, and reasonable, and will benefit the public interest and the ends of justice by protecting the constitutional rights of the Class Members.

11. The Parties also agree and acknowledge that the proposed Consent Decree promotes public safety and victims’ rights by implementing a Plan to drastically shorten the time incompetent criminal defendants wait for restoration services; which, in turn, expedites the prosecution and resolution of their criminal cases. This will shorten the time victims and their families must wait for their cases to be resolved in the courts. Moreover, expediting restoration treatment for defendants incarcerated in Oklahoma county jails reduces the costs, correctional

staffing and training challenges, and liability risks to the jails associated with prolonged incarceration of defendants experiencing severe mental illness.

12. The proposed Consent Decree has been approved on behalf of the Plaintiffs by lead Class Counsel, Paul DeMuro, of Frederic Dorwart, Lawyers PLLC; and on behalf of Defendants by the Attorney General Gentner Drummond. *See* Ex. 1, p. 43.

13. The Parties believe the “Plan” outlined in the proposed Consent Decree is consistent with Governor Stitt’s public statements regarding the chronic problems afflicting Oklahoma’s competency restoration system. For example, on June 9, 2023, the Governor issued a statement in connection with his veto of SB 552, which sought to modify certain aspects of the statutory competency restoration regime. In his veto statement, which is attached hereto as Exhibit 2, the Governor correctly observed that “[w]e must do a better job addressing rampant mental health issues plaguing our society. This includes taking a hard look at the methods and structures being used to restore to competency those criminal defendants who may be afflicted by mental health disorders.” Ex. 2, p. 2. The Governor then issued a call to action:

I urge stakeholders such as district attorneys, law enforcement officials (e.g. sheriffs), the Department of Mental Health and Substance Abuse Services, and other mental health professionals to collaborate well before the next legislative session to identify creative solutions available to address the overarching issues—where (e.g. outpatient-type treatment) and how we meaningfully treat and restore individuals temporarily deemed incompetent to stand trial.

Ex. 2, p. 1.

14. This is precisely what the Parties did here; and the result is the proposed Consent Decree. The Parties spent a year meeting with stakeholders, law enforcement officials and mental health professionals throughout the state, and touring jails, inspecting the OFC, and conferring with Department personnel, to identify the challenges plaguing Oklahoma’s competency restoration system. This collaboration resulted in the Parties, in consultation with nationally

recognized subject-matter experts, crafting “creative solutions” to fix Oklahoma’s competency restoration system. The solutions are expressed in the comprehensive “Plan” in the proposed Consent Decree. The Consent Decree is supported on all sides - by law enforcement, prosecutors, the defense bar, courts, and health care professionals.

### **The Proposed Class and Class Counsel**

15. In accordance with the proposed Consent Decree, and Rule 23(e), the Parties stipulate to, and request that the Court certify, the following Class under Rule 23(b)(2):

All persons who are now, or will be in the future, charged with a crime in Oklahoma State court and are: (i) declared incompetent to stand trial by the state court; (ii) court-ordered to receive competency restoration services by the Department or its designees; (iii) incarcerated in a county jail or similar detention facility while their criminal cases are stayed; and (iv) awaiting court-ordered competency restoration services to be provided by the Department or its designees, whether or not placed on a competency waitlist maintained by the Department or its designees.

16. The Parties stipulate that the proposed Class certification is reasonable and required to effectuate the purposes of the Consent Decree.<sup>1</sup>

17. The Parties stipulate that Paul DeMuro, Frederic Dorwart and David Leimbach of Frederic Dorwart, Lawyers PLLC, and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc., satisfy the requirements for, and should be appointed as, Class Counsel under Rule 23(g).

18. Proposed Class Counsel have, collectively, expended more than 950 hours working on this case, including investigating and researching the claims asserted herein, preparing the Complaint, meeting with experts and stakeholders within Oklahoma’s competency restoration system, touring facilities, and negotiating and drafting the Consent Decree. Class Counsel, collectively, have substantial relevant subject matter expertise and substantial experience in class

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<sup>1</sup> Members of the Class are sometimes referred to as “Class Members.”

action litigation. Most similar to the present matter, Paul DeMuro and Frederic Dorwart served as co-Class Counsel in the litigation against the Oklahoma Department of Human Services before this Court. *See D.G. v. Yarbrough*, Case No. 08-CV-074-GKF-FHM, Dkt. 774, Preliminary Order Approving Compromise and Settlement Agreement (N.D. Okla. Jan. 23, 2023). Class Counsel have sufficient resources to serve as Class Counsel and to protect the rights and interests of the Class Members.

**Summary of Proposed Consent Decree’s Structure and Key Terms**

19. The stated purposes and intent of the proposed Consent Decree are to: (i) develop and implement a strategic “Plan” to reform and improve Defendants’ delivery of competency evaluations and restoration treatment to Class Members, including significantly reducing wait times for Class Members in need of restoration treatment; (ii) resolve all claims asserted by Plaintiffs on behalf of the Class in this lawsuit; and (iii) provide a mechanism to monitor and enforce Defendants’ compliance with the Consent Decree, through the appointment of a panel of three subject-matter expert “Consultants.” *See* Ex. 1, ¶¶ 14, 30. Each side selected one Consultant and, thereafter, the two Consultants recommended a third Consultant.<sup>2</sup>

20. In general, the Consent Decree provides that, within ninety (90) days of entry of the proposed Consent Decree, the Department must use “Best Efforts” to develop and begin to implement the Plan’s components in consultation with the Consultants and Class Counsel. The Consultants must approve the Department’s proposed Plan components. Ex. 1, ¶ 54. The Plan’s components include:

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<sup>2</sup> The three Consultants are: (i) Neil Gowensmith, Ph.D., a clinical and forensic psychologist; (ii) John Petril, J.D., an expert mental health law lawyer; and (iii) Darren Lish, MD, a clinical psychiatrist. The Consultants’ resumes are attached at Exhibit 3.

- a. reevaluation of all Class Members currently waiting to receive competency restoration treatment, which must be performed by a “Qualified Forensic Examiner” (Ex. 1, ¶ 57);
- b. cessation of the Department’s current purported state-wide in-jail competency restoration program, while allowing for continuation of current medical treatment of Class Members while still in jail (*id.* at ¶ 58-61);<sup>3</sup>
- c. increasing the Department’s inventory of inpatient forensic beds dedicated solely for competency restoration; (*id.* at ¶ 62);
- d. upgrades to OFC’s staffing and environment-of-care standards (*id.* at ¶ 62);
- e. development and implementation of a continuing education program for OFC psychiatrists, psychologists, and other clinical staff involved in competency restoration (*id.* at ¶ 64);
- f. development and implementation of a competency restoration triage screening program intended to expedite evaluation and placement of Class Members in appropriate restoration treatment settings (*id.* at ¶¶ 65-66);
- g. imposing deadlines for performing court-ordered competency evaluations and for reevaluations by Qualified Forensic Examiners (*id.* at ¶ 67);
- h. development and implementation of a community-based restoration treatment pilot program in four Oklahoma counties (*id.* at ¶¶ 68-73);

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<sup>3</sup> Plaintiffs had alleged that Defendants never implemented a legitimate state-wide competency restoration program consistent with generally accepted professional forensic standards.



- i. development and implementation of an in-jail restoration treatment pilot program in two Oklahoma counties, including Tulsa County (*id.* at ¶¶ 74-76);
- j. development and implementation of a plan for enhanced staffing at the Department dedicated to competency restoration, including data gathering, reporting, and management (*id.* at ¶¶ 77); and
- k. increased competency restoration training to relevant state-court personnel (*id.* at ¶¶ 78).

21. The goal of the pilot programs for community-based restoration and in-jail restoration is, in part, to develop best practices, policies, and data to determine if such programs are effective and should be expanded to other Oklahoma counties. Ex. 1, ¶¶ 71, 75.

22. The Consent Decree obligates the Defendants to reduce the duration of time Class Members must wait to obtain restoration treatment, defined as “Maximum Allowable Wait Times,” by imposing a series of deadlines with increasingly shorter allowable wait times, down to the ultimate goal of a Maximum Allowable Wait Time of 21 days for any Class Member to obtain restoration treatment after being declared incompetent. Ex. 1, ¶¶ 27, 86. The first Maximum Allowable Wait Time benchmark is sixty (60) days, to be achieved no later than seven (7) months after the Court enters the Consent Decree. The ultimate Maximum Allowable Wait Time goal of 21 days must be achieved no later than sixteen (16) months after entry of the Consent Decree. *Id.*

23. The Maximum Allowable Wait Time deadlines are enforced by a regime of escalating Fines, which are imposed at daily rates for each day a Class Member waits for restoration treatment beyond the prescribed Maximum Allowable Wait Time. Ex. 1, ¶ 92. The Fines regime becomes effective seven (7) months after entry of the Consent Decree, coinciding

with the first Maximum Allowable Wait Time deadline. The Fines are capped at \$3.5 million for the first year the Fines are operative, \$5.5 million for the second year, and \$7 million for the remainder of the five-year duration of the Consent Decree. *Id.* at ¶ 92(f).

24. The Fines will be deposited in a Fines Account to be managed by a committee consisting of representatives of Class Counsel, the Department, the Attorney General’s Office, and the Consultants. Funds in the Fines Account must be used for the funding or supporting of services for people experiencing mental illness and competency issues in Oklahoma who are charged with criminal offenses including the Class Members, and which the Department is not otherwise obligated to provide by law or under the Consent Decree. Ex. 1, ¶ 95.

25. Defendants must submit monthly status reports regarding, among other things, their compliance with the Maximum Allowable Wait Times, their progress toward developing and implementing the Plan’s components and other provisions of the Consent Decree. Ex. 1, ¶ 82.

26. In general, the Consultants are given broad authority to: (i) investigate, monitor, and make findings with respect to Defendants’ compliance with the terms of the Consent Decree; (ii) report the status of Defendants’ compliance or progress (or lack thereof) to the Court and the Parties; (iii) advise, recommend, and facilitate methods to the Department regarding plans and practices for improving the delivery of competency evaluations and restoration treatment to Class Members; (iv) approve the Department’s development of the Plan’s components; and (v) serve as mediators for disputes between the Parties regarding any aspect of the Consent Decree. Ex. 1, ¶¶ 38, 54.

27. The Consultants must submit “Bi-Annual Reports” that, in general: (i) report the Consultants’ findings with respect to Defendants’ compliance, or lack thereof, with the terms of the Consent Decree; (ii) recommend measures to enhance Defendants’ compliance; (iii)

summarize any Fines paid by the Department; and (iv) recommend additional injunctive relief, if any, the Court may consider to achieve the purposes and goals of the Consent Decree. The Department must publish the Consultants' Bi-Annual Reports on the Department's website (<https://oklahoma.gov/odmhsas.html>) in a format easily accessible to the public. Ex. 1, ¶ 45.

28. The Consultants' fees are to be paid by the Department at an hourly rate of \$450. Ex. 1, ¶ 53.

29. The duration of the proposed Consent Decree is five years. However, if the Court determines, upon Plaintiffs' motion, that Defendants have not achieved substantial compliance for at least the nine (9) consecutive months preceding the hearing on Plaintiffs' motion, the Court may extend the term of the Consent Decree and retain jurisdiction for a period of time determined by the Court to ensure that Defendants come into compliance with the terms of the proposed Consent Decree. Ex. 1, ¶ 106.

### **Dispute Resolution and Enforcement**

30. The proposed Consent Decree includes a "Dispute Resolution Process" intended to incentivize the Parties to cooperate to resolve disputed issues and to minimize the need for Court intervention. In general, the Dispute Resolution Process involves a mediation process conducted by the Consultants, which any Party may invoke to resolve any dispute with respect to the Defendants' compliance with the Consent Decree or the interpretation of any provision thereof. Except for requests for emergency relief, no Party may submit to the Court any disputed issue for resolution until the Parties have gone through the Dispute Resolution Process and the Consultants have rendered a "Consultants' Decision." Thereafter, a Party may ask the Court to review the "Consultants' Decisions" under a deferential "arbitrary and capricious" standard of review for Consultants' factual findings or recommendations. Ex. 1, ¶¶ 96, 97.

### **Attorney Fees and Litigation Expenses**

31. The Parties agree and stipulate, in the proposed Consent Decree, that Class Counsel is entitled to be awarded their reasonable attorney fees and litigation expenses in prosecuting this lawsuit. The Parties agree that proposed Class Counsel should be awarded fees and expenses for work performed up to the filing of this Motion as follows: (i) \$275,000 in attorney fees and \$64,535 in litigation expenses to Frederic Dorwart, Lawyers PLLC; and (ii) \$28,000 in attorney fees to the Oklahoma Disability Law Center. These fees represent a substantial discount in the fees Class Counsel could reasonably request and recover based on prevailing hourly rates in the community for similarly complex work.<sup>4</sup> Ex. 1, ¶ 101.

32. The proposed Consent Decree provides that, after the filing of this Motion, the Department shall pay Class Counsel reasonable expenses and attorney fees based on an hourly rate of \$325. After entry of the Consent Decree, Class Counsel's collective fees shall be capped at \$75,000 per year. *Id.* at ¶¶ 102-103.

### **Plan of Notice to the Class**

33. Under Rule 23(e), a proposed certified settlement class and settlement or compromise of class claims must be approved by the Court. The Court “must direct notice in a reasonable manner to all class members who would be bound by the proposal,” upon a showing that the Court “will likely be able to”: (i) approve the proposed settlement under the factors enumerated under Rule 23(e)(2); and (ii) certify the Class for purposes of judgment on the settlement proposal. Fed. R. Civ. P. 23(e)(1) and (2). Because the proposed Consent Decree

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<sup>4</sup> For example, Frederic Dorwart, Lawyers PLLC (“FDL”) has incurred approximately 862.45 hours of attorney time in this matter through the end of May 2024, with over 85% of that work being performed by Paul DeMuro and Frederic Dorwart. The agreed fee award to FDL represents an average hourly attorney rate of \$318.86.

requires court approval, Class Members must be given the opportunity to object. Fed. R. Civ. P. 23(e)(5).

34. The Parties have agreed on the following plan of Notice to the Class that accounts for the Class Members' status as persons judicially declared incompetent to stand trial. The Parties propose that, promptly upon the Court granting this Motion, Notice shall be given as follows:

- a. Notice to the Class Members will be given by sending them via first-class U.S. mail the proposed "Notice of Proposed Class Action Settlement" attached hereto as Exhibit 4 ("Notice"), using the Department's most current list of persons declared incompetent and awaiting restoration treatment. The proposed Notice will allow for Class Members to submit objections or comments to the proposed Consent Decree via a self-addressed stamped envelope, or via a case website Class Counsel has created for such purpose.<sup>5</sup> The Notice will also include a toll-free number maintained by Class Counsel to call with any questions or comments about the proposed Consent Decree.
- b. A Notice in substantially the same form as Exhibit 4 will be sent via first-class U.S. mail to the attorneys and guardians ad litem of record for the Class Members in their state court criminal cases. This Notice will be addressed to defense counsel and guardians ad litem, and include a request that defense counsel and their guardians ad litem share the Notice with known family members of the Class Member and encourage those

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<sup>5</sup> Class Counsel have reserved the following domain name, and created a case website that will go live once the Court grants this motion. See <https://www.okcompetencyrestoration.com>. Class Counsel will post the proposed Consent Decree and other case documents on the case website.

individuals to submit objections or comments to the proposed Consent Decree.

- c. A Notice in substantially the same form as Exhibit 4 will be addressed and sent via first class U.S. mail to all District Attorneys in Oklahoma, all Chief Public Defenders in Oklahoma, and the Executive Director of Oklahoma's Indigent Defense System.
- d. A Notice in substantially the same form as Exhibit 4 will be addressed and sent via first-class U.S. mail to the Clerks of the District Courts for all District Courts of Oklahoma, with a request to post the Notice in the Clerks' offices.
- e. All Notices described herein shall: (i) include instructions for submitting comments or objections to the proposed Consent Decree and for indicating whether the noticed person intends to appear at the final settlement approval hearing, either in writing or via the case website created by Class Counsel; (ii) advise that the proposed Consent Decree, and other case documents, are posted and accessible on the case website; and (iii) provide a toll-free number maintained by Class Counsel to field any questions or comments about the proposed Consent Decree.

35. Class Counsel will maintain and consolidate all submitted comments or objections to the proposed Consent Decree and provide copies to the Parties' counsel of record. Class Counsel shall submit to the Court all received comments and objections no less than seven (7) days before the hearing for final approval of the Consent Decree.

**Legislative Approval**

36. The Parties must obtain approval of the Consent Decree from either the Oklahoma State Legislature or the Contingency Review Board before it is finally entered. *See* 51 O.S. § 200. Once the Court grants this Motion, the Parties will work to obtain such approval. The Parties will notify the Court once approval is obtained, or if the Parties encounter difficulty in securing such approval.

**Stipulations Regarding Rule 23(e)(2) Factors**

37. The Parties, in accordance with Rule 23(e)(2), stipulate and agree that the proposed Consent Decree is a fair, reasonable, and adequate resolution of the issues embraced by this lawsuit, and that:

- a. Class Counsel and the Named Plaintiffs have adequately represented the interests of the Class;
- b. the proposed settlement was fairly and honestly negotiated at arm's length;
- c. the value of an immediate resolution outweighs the mere possibility of future relief after protracted and expensive litigation; and
- d. the relief provided to the Class is adequate in consideration of the factors enumerated in Rule 23(e)(2)(C).

*See, e.g., Martinez v. Reams*, 2021 WL 603054, \*4 (D. Colo, Feb 16, 2021) (class action settlement seeking relief for medically vulnerable persons at the Weld County jail; certified under Rule 23(b)(2)).

**Requested Relief**

Based on the foregoing, the Parties jointly request that the Court: (i) grant preliminary approval of the proposed Consent Decree that (among other things) certifies a settlement Class,

appoints Class Counsel, and adopts a remedial Plan to resolve Plaintiffs' claims herein; (ii) approve the forms and plan of Notice to the Class as described above; and (iii) set a hearing sixty (60) days after granting this Motion to determine the final approval of the Consent Decree.

*[Counsel's signature blocks on next page.]*



RESPECTFULLY SUBMITTED,

/s/ Paul DeMuro

Paul DeMuro, OBA No. 17605

/s/ Frederic Dorwart

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***Counsel for Defendants***

# **Exhibit 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) LESLIE BRIGGS, as next friend of T.W. )  
and B.S.; )  
(2) EVAN WATSON, as next friend of C.R.; )  
and, )  
(3) HENRY A. MEYER, III, as next friend )  
of A.M., for themselves and for others )  
similarly situated, )  
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Plaintiffs, )

v. )

Case No: 23-cv-81-GKF-JFJ

(1) ALLIE FRIESEN, in her official capacity )  
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Oklahoma Department of Mental Health )  
and Substance Abuse Services; and )  
(2) DEBBIE MORAN, in her official )  
capacity as Executive Director of the )  
Oklahoma Forensic Center, )  
)  
Defendants. )

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**CONSENT DECREE**

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## CONSENT DECREE

This matter comes before the Court on the Parties' *Joint Motion for Preliminary Approval of Entry of Joint Consent Decree* (Doc. \_\_) ("*Joint Motion*"). The Parties, by and through their respective counsel, have stipulated to the facts, recitals and law set forth herein, and to the certification of the Class as defined below, and hereby agree to enter this Consent Decree to resolve this Lawsuit (as defined below) under the terms and conditions set forth herein. The Court, having reviewed the *Joint Motion*, and the attachments thereto, having held hearing(s) on this matter as described below, and otherwise being fully advised, hereby finds good cause for entry of this Consent Decree and, therefore, GRANTS, the *Joint Motion* and ENTERS this Consent Decree on the following terms and conditions.

### **I. Introduction**

1. The Oklahoma Department of Mental Health and Substance Abuse Services (the "Department") has the statutory obligation under 22 Okla. Stat. § 1175.1 *et seq.* to provide competency evaluations and Restoration Treatment (as defined below) for persons found incompetent to stand trial in Oklahoma state court criminal proceedings.

2. Under 22 Okla. Stat. § 1175.3, when a person charged with a crime is or becomes mentally incompetent to proceed, an application may be filed in the state district court in which the charge is pending to determine the person's mental competency. If the state court determines that the person is incompetent to stand trial because he or she is a "person requiring treatment" as defined in 43 Okla. Stat. § 1-103, but capable of achieving competency with treatment within a reasonable period of time, the state court must suspend the criminal proceedings and order the Department, or its designee, to provide treatment, therapy, or training calculated to allow the person to achieve competency. 22 Okla. Stat. § 1175.6a.

3. The Oklahoma Forensic Center (“OFC”) is currently the only Department-operated hospital that provides secure in-patient competency restoration treatment in Oklahoma. In this Lawsuit, Plaintiffs alleged that, in part, due to a Department claimed lack of forensic beds at OFC, the Department maintained a waitlist of Class Members who have waited months for court-ordered competency Restoration Treatment. During this waiting period, Class Members were or are incarcerated in county jails, where they received little or no treatment to restore competency.

4. On March 1, 2023, on behalf of the Class defined below, four individually named Plaintiffs (through their next friends) filed this class action lawsuit (“Lawsuit”) under 48 U.S.C. § 1983 against the Department’s Commissioner and the Executive Director of the OFC, in their official capacities. Plaintiffs, and the putative class, were or are pretrial defendants in Oklahoma state court criminal proceedings who had been declared incompetent to stand trial and were or are incarcerated in county jails waiting for the Department to provide Restoration Treatment. In general, Plaintiffs challenged the length of time the putative class of pretrial detainees are or were forced to wait for the Department to provide Restoration Treatment while their criminal cases are stayed. Plaintiffs alleged that the prolonged waiting periods violated the Class Members’ rights: (i) secured under the due process clauses of the Fourteenth Amendment to the United States Constitution and Article 2, Section 7 of Oklahoma’s constitution; and (ii) under the Americans with Disabilities Act (“ADA”) by failing to properly accommodate Plaintiffs’ disabilities.

5. On April 10, 2023, Defendants filed a motion to dismiss. (Doc. 16).

6. Thereafter, the Parties engaged in settlement discussions. Defendants withdrew their motion to dismiss. (Doc. 21). The Parties jointly requested, and the Court granted, a series of stays to facilitate on-going settlement discussions. (*See* Docs. 22, 29, 34, 38, 40). During the approximately thirteen (13) months when the case was stayed, the Parties exchanged substantial

data and other document discovery, consulted experts, toured the OFC and other facilities, met with numerous stakeholders involved in Oklahoma's competency restoration system, and conducted in-person settlement discussions. (*See, e.g.*, Docs. 28, 32).

7. On May 10, 2024, the Parties filed their final *Joint Motion for Preliminary Approval of Joint Consent Decree and Class Notice* (Doc. \_\_\_), declaring that the Parties had reached a resolution of all claims in the Lawsuit, including agreed conditions and terms to improve the Department's competency evaluation and Restoration Treatment programs, and to reduce wait times for Class Members, which are reflected in this Consent Decree. The Parties represented, and the Court agrees, that it is in the Parties' best interest, and the best interests of the Class, to avoid protracted, costly, and uncertain litigation and to resolve this Lawsuit in accordance with the terms and conditions set forth in this Consent Decree. The *Joint Motion for Preliminary Approval* also sought the Court's approval of the Parties' proposed plan of Notice to the Class of the proposed Consent Decree settlement in accordance with Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure.

8. On \_\_\_\_\_, 2024, the Court held a hearing, or otherwise carefully considered, the Parties' *Joint Motion for Preliminary Approval of Entry of Joint Consent Decree and Class Notice* (Doc. \_\_\_). The Court granted the *Joint Motion*, granted preliminary approval of this Consent Decree, approved the Parties' proposed plan and form of Notice to the Class, and set a hearing on \_\_\_\_\_, 2024 on the Parties' request for final approval of the proposed Consent Decree. Thereafter, the Parties issued the Class Notice in accordance with their plan of Notice outlined in the *Joint Motion for Preliminary Approval*.

9. On \_\_\_\_\_, 2024, the Court held a hearing for final approval of this Consent Decree, at which the Court considered any written comments or objections submitted in response

to the Class Notice and any comments or objections voiced at the hearing. At the hearing, after inquiry with the Parties' counsel, careful consideration of *Joint Motion for Preliminary Approval*, the terms of this Consent Decree, and consideration of any objections or comments thereto, the Court stated its intention to grant the *Joint Motion* and enter this Consent Decree.

## **II. Parties and Purpose**

10. The Plaintiffs are individuals identified as T.W., B.S., C.R., and A.M. (hereinafter collectively, the "Named Plaintiffs" or "Plaintiffs"). The Named Plaintiffs are represented in this Lawsuit by the above-captioned Next Friends who are court-appointed guardians *ad litem* for the Named Plaintiffs. The Plaintiffs, and the Class Members, were, are currently, or may be in the future, incarcerated in Oklahoma county jails as pretrial criminal defendants declared incompetent by an Oklahoma state court and are awaiting court-ordered Restoration Treatment to be provided by or on behalf of the Defendants or their designees. Defendants stipulate and agree that the Next Friends and Named Plaintiffs have standing to request that the Court enter this Consent Decree and to enforce the terms thereof.

11. Defendant Allie Friesen is sued in her official capacity as the Commissioner of the Department.

12. Defendant Debbie Moran is sued in her official capacity as the Interim Executive Director of the OFC.

13. The Defendants will, in consultation with Class Counsel and the Consultants (as hereafter defined), formulate and implement the strategic Plan defined below in Section VI, which is designed to enhance the Department's competency evaluation processes and improve the delivery of Restoration Treatment to significantly reduce the duration of time for which Class Members wait to receive Restoration Treatment.



14. The purposes and intent of this Consent Decree are: (i) to ensure implementation, monitoring, enforcement and, when necessary, modification of the Plan to improve the Department's delivery of competency evaluations and timely Restoration Treatment; (ii) to resolve all claims asserted by Plaintiffs on behalf of the Class in the Lawsuit; and (iii) to provide a mechanism to monitor and enforce Defendants' compliance with this Consent Decree, including through the appointment of Consultants, as defined below. The Parties believe and intend that this Consent Decree, by improving Department's delivery of competency evaluations and timely Restoration Treatment, will promote public safety.

15. Notwithstanding the Parties' joint request to enter this Consent Decree, Defendants deny liability for all claims asserted in the Lawsuit and agree to enter this Consent Decree solely to avoid protracted and uncertain litigation and, instead, to focus the Parties' resources on improving Oklahoma's competency restoration system. The Parties believe, and the Court agrees, that this Consent Decree, and the Plan adopted herein, is a fair and reasonable resolution of the Lawsuit, and is in the Class Members' best interest.

### **III. Stipulation to Class Certification and Class Counsel**

16. In accordance with Fed. R. Civ. P. 23(e), the Parties stipulate to certify the following Class for purposes of settlement. The Court hereby finds that certification of this Class complies with Fed. R. Civ. P. 23(e), and is reasonable and required to effectuate the purposes of this Consent Decree. Therefore, the Court hereby certifies the following Class of persons under Fed. R. Civ. P. 23(b)(2) to whom the benefits of the Plan and other terms of this Consent Decree generally apply:

All persons who are now, or will be in the future, charged with a crime in Oklahoma State court and are: (i) declared incompetent to stand trial by the state court; (ii) court-ordered to receive competency restoration services by the Department or its designees; (iii) incarcerated in a county jail or similar detention facility while their

criminal cases are stayed; and (iv) awaiting court-ordered competency restoration services to be provided by the Department or its designees, whether or not placed on a competency waitlist maintained by the Department or its designees.

17. The Parties also stipulate that Paul DeMuro and Frederic Dorwart of Frederic Dorwart, Lawyers PLLC, and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc., satisfy the requirements for, and should be appointed as, Class Counsel under Fed. R. Civ. P. 23(g). The Court, having considered the required factors under Rule 23(g), agrees and hereby appoints Paul DeMuro and Frederic Dorwart of Frederic Dorwart, Lawyers PLLC, and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc., as Class Counsel.

#### **IV. Definitions**

18. “Best Efforts” means taking reasonable steps, actions and measures, consistent with best professional standards, practices and guidelines to accomplish or bring about the intended and described result. Defendants may not use lack of funding as an excuse for a failure to use “Best Efforts.”

19. “Class” or “Class Members” means the persons who have been, are or will be during the term of this Consent Decree members of the Class as defined in Paragraph 16 above.

20. “Class Counsel” means Paul DeMuro and Frederic Dorwart of Frederic Dorwart, Lawyers PLLC, and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc.

21. “Community-Based Restoration Treatment Pilot Program” means a new pilot program to be developed and implemented in Tulsa County, Oklahoma County, McIntosh County, and Muskogee County to provide outpatient Restoration Treatment to eligible Class Members who have been judicially determined not to be a substantial risk of harm to themselves or other while

in a supervised out-patient community setting by private or public entities, instead of inpatient units of state psychiatric hospitals, other inpatient restoration facilities, jails or detention facilities; as more fully described in Paragraphs 68-73 below.

22. “Custody Order” or “Commitment Order” means a written Order for Competency Treatment, issued by a court and signed by a judge, which orders a Class Member committed to the legal custody of the Department or a designee for the purpose of treatment intended to restore the defendant to competency, as described in 22 Okla. Stat. §§ 1175.3 & 1175.6(a).

23. The “Department” means the Oklahoma Department of Mental Health and Substance Abuse Services. Whenever, in this Consent Decree, the Department is ordered or obligated to take, or refrain from taking, certain action, including without limitation meeting certain deadlines or timeframes, it is understood to mean that the Defendants, acting in their official capacities, shall cause the Department to take such action, or refrain from taking such action. Whenever, under the terms of this Consent Decree, Defendants are required to confer with the Consultants, Class Counsel or others, or to be consulted about any aspect of this Consent Decree, Defendants’ counsel also have the right to participate.

24. “Forensic Bed” means a duly licensed and certified bed in a state forensic psychiatric hospital, contracted bed in an inpatient hospital or hospital-like setting, or a duly licensed and certified bed in a community setting. These beds may be provided through a contract between the Department and a third-party provider such as a Certified Community Behavioral Health Center. A “Forensic Bed” does not include beds used in the In-Jail Competency Restoration Pilot Program (defined below).

25. “Incompetent” or “Incompetent to stand trial” has the same meaning as set forth in 22 Okla. Stat. § 1175.1.

26. “In-Jail Competency Restoration Pilot Program” means a new, research and evidence-informed program to provide Restoration Treatment consistent with forensic mental health’s best practices to select Class Members who have criminal cases pending in Tulsa County, and in another Oklahoma county to be determined in accordance with the Plan described below (*see* Paragraphs 74-76).

27. “Maximum Allowable Wait Time” means the greatest number of days that any Class Member is permitted to wait under Paragraph 86 to receive Restoration Treatment, as measured from the date on which OFC, the Department or its designee receives the Custody Order or Commitment Order until the date on which the Class Member begins receiving Restoration Treatment at OFC, the In-Jail Competency Restoration Pilot Program, or the Community-Based Restoration Treatment Pilot Program, or other forensic bed approved under the Plan. For Class Members who are incarcerated when this Consent Decree is entered, the first day of wait time for purposes of determining their Maximum Allowable Wait Time shall be deemed to be the date upon which this Consent Decree is entered; provided, Defendants shall track and record those Class Members’ actual total wait times.

28. “Material Violation” means any failure to use Best Efforts to adhere to any plans or methods implemented by the Department so as to comply with the terms of this Consent Decree. Isolated, non-substantive, or immaterial deviations from the terms of this Consent Decree or from any plans or methods implemented so as to comply with the terms of this Consent Decree will not constitute a Material Violation, provided Defendants: (a) can demonstrate that they have implemented a system or systems of assuring compliance and for taking corrective measures in response to instances of non-compliance and (b) have instituted policies, practices, and resources

that are capable of durable and sustained compliance. Any failure by Defendants to use Best Efforts to comply with the terms of this Consent Decree will be considered a Material Violation.

29. The “Consultants” means: (i) William Neil Gowensmith, Ph.D., of Groundswell Services, Inc.; (ii) John Petrla; and (iii) Dr. Daren Lish, who the Court appoints herein to perform the monitoring, reporting, advising, and dispute-resolution functions and duties set forth in Section V, VI and VIII below.

30. The “Plan” means the strategic plan developed by Defendants, in consultation with Class Counsel and the Consultants, and approved by the Consultants, as described in Section VI below, designed to reform and improve the Defendants’ delivery of competency evaluations and Restoration Treatment to Class Members, including to reduce significantly the durations of time during which Class Members wait to receive Restoration Treatment.

31. “Qualified Forensic Evaluator” or “Qualified Forensic Examiner,” for purposes of this Consent Decree, means and must be a licensed mental health professional at either the master’s or doctoral level, to include: (a) master’s level licensed professional counselors, (b) master’s level social workers, (c) psychologists, and (d) psychiatrists; all of whom must receive comprehensive forensic training and demonstrate continued proficiency, skill, and professional conduct in order to conduct competence evaluations. The Department shall train, approve, and continuously monitor all Qualified Forensic Examiners conducting competence evaluations to ensure adherence to established professional standards. Master’s level Qualified Forensic Examiners will be subject to enhanced training, approval, and monitoring standards, will be prohibited from conducting competence evaluations on certain types of cases, and will be required to hand off competence evaluation cases to doctoral level psychologists or psychiatrists at times. Qualified Forensic Examiners must be reapproved by the Department at least every two years, and they may be subject

to corrective remediation or termination of examiner duties if the quality of evaluations are inadequate. The Department shall make the Qualified Forensic Examiner's approval records available to all licensed mental health professionals conducting competence evaluations, and shall maintain a list of active Qualified Forensic Examiners approved by the Department, which the Department shall provide to all Oklahoma District Courts on a quarterly basis. Within ninety (90) of entry of this Consent Decree, Defendants, in consultation with Class Counsel and the Consultants, and with the Consultants' final approval, shall develop forensic and competence evaluation training standards, approval standards, ongoing monitoring standards, and restrictions on the type of cases master's-level Qualified Forensic Examiners may handle.

32. "Bi-Annual Reports" means the written reports submitted by the Consultants to the Parties twice every annual calendar year, in accordance with Paragraph 45 below, that, among other things: (i) reports the Consultants' findings with respect to the Defendants' compliance, or lack thereof, with the terms of this Consent Decree; (ii) recommends strategies for, and guidance to, Defendants to address short and long-term compliance with the Plan and the timeframes for delivering competency evaluation and Restoration Treatment services to Class Members as set out in this Consent Decree; and (iii) recommends additional injunctive relief, if any, the Court may consider to achieve the purposes and goals of this Consent Decree.

33. "Restoration Treatment" means psychosocial therapy, treatment, psychotropic medication, and/or education, informed by research and tailored to the conditions of each individual Class Member, designed to restore a Class Member to competency in accordance with 22 Okla. Stat. § 1175.6a, provided by a Treatment Rendering Provider (as defined below) employed or designated by the Department, that occurs only in: (i) admission to OFC or another lawfully accredited and qualified inpatient forensic bed setting; (ii) the In-Jail Competency

Restoration Pilot Program; (iii) the Community-Based Restoration Treatment Pilot Program, or (iv) other appropriate placements as determined by the Department in consultation with, and approval by the Consultants.

34. “Status Report” means the written report issued by the Defendants and submitted to the Consultants and Class Counsel on a monthly basis during the term of this Consent Decree, which, among other things, tracks the Class Members’ status in the competency restoration process, in accordance with Paragraphs 82-83 below.

35. “Treatment Rendering Provider” means a masters-degree level clinician with comprehensive forensic training and experience sufficient to enable them to provide Restoration Treatment to Class Members, working under the supervision of a licensed psychiatrist or psychologist.

36. “Waitlist” means a list of Class Members waiting for Restoration Treatment, which Defendants shall maintain throughout the term of this Consent Decree. The Waitlist shall include: (i) the county, case number, defense attorney, prosecutor, and judge in the Class Members’ state court criminal cases; (ii) the dates upon which the state court ordered the competency evaluation, the defendant was found incompetent, and the Custody Order or Commitment Order was entered; (iii) the date upon which the Department or its designee received the Order for Competency Restoration; (iv) the current custodial status of the Class Members; (v) any competency re-evaluation and placement history; and (vi) other information the Department and the Consultants jointly deem pertinent to the Class Members’ status on the Waitlist.

**V. Consultants: Appointment, Duties and Compensation**

37. **Appointment of Consultants.** The Parties agree that: (i) monitoring, advising, enforcing, and reporting Defendants’ compliance with terms of this Consent Decree are vital to

accomplishing its purposes and goals; and (ii) Neil Gowensmith of Groundswell Services, Inc., John Petriola, and Dr. Darren Lish, have the necessary experience, expertise, and resources to serve as Consultants. The Court, therefore, hereby appoints Neil Gowensmith, John Petriola, and Dr. Darren Lish to serve as Consultants in accordance with the terms of this Consent Decree.

38. **Consultants' Duties.** The Consultants shall have the following duties and perform the following functions, to be discharged in good faith: (i) investigate, monitor, and make findings with respect to Defendants' compliance with the terms of this Consent Decree; (ii) report the status of Defendants' compliance or progress (or lack thereof) to the Court and the Parties; (iii) advise, recommend, and facilitate methods to the Department regarding plans and practices for improving the delivery of competency evaluations and Restoration Treatment to Class Members, including addressing the short-term and long-term compliance with the Restoration Treatment timeframes set out herein; and (iv) serve as mediators for disputes between the Parties regarding any aspect of this Consent Decree as set out in the Dispute Resolution Process in Section VIII below.

39. There shall be three Consultants for the duration of this Consent Decree. In the event a Consultant becomes unable or unwilling to serve, the Consultants shall consist of the remaining appointed Consultants until replacement Consultant(s) are appointed, in accordance with this Paragraph 39, to restore three serving Consultants. In the event any Consultant becomes unable or unwilling to serve as a Consultant, and there are two (or fewer) remaining Consultants, then the Defendants and Class Counsel shall attempt to agree expeditiously, in consultation with the remaining Consultants, on a replacement(s) Consultant. If, within thirty (30) days, no agreement is reached, Defendants and Class Counsel shall each submit two names to the remaining Consultants. The remaining Consultants shall, within fifteen (15) days, select a replacement Consultant from the list, subject to the approval of the Defendants and Class Counsel. Such



approval shall not be unreasonably withheld. If the Defendants or Class Counsel withhold approval, then the selection of the new Consultant(s) shall be governed by the provisions of the Dispute Resolution Process set forth in Section VIII below.

40. If all three Consultants become unable or unwilling to serve or continue to serve simultaneously, then each Party shall select, in their sole discretion, one Consultant to be appointed. The two newly selected Consultants then shall mutually agree upon a third Consultant to be appointed upon the Parties' approval, which shall not be unreasonably withheld. If Defendants or Class Counsel withhold approval, then the selection shall be governed by the provisions of the Dispute Resolution Process set forth in Section VIII below.

41. The Consultants may adjust any time frame contained within this Consent Decree that, in their sole discretion, is impacted by the loss of one or more Consultant. The Consultants shall report any timeframe modifications in their Bi-Annual Reports.

42. The Parties agree that neither they, nor any employee or agent of either Party, shall have any supervisory authority over the Consultants or their activities, reports, findings, or recommendations. The Parties agree that no current or former Department employees may serve as a Consultant under this Consent Decree.

43. The Consultants are not a state or local agency or agent thereof, and accordingly the records maintained by the Consultants shall not be deemed public records subject to public inspection. Neither the Consultants nor any person or entity hired or otherwise retained by the Consultants to assist in furthering any provision of this Consent Decree shall be liable for any claim, lawsuit, or demand arising out of the Consultants' good-faith performance pursuant to this Consent Decree. Except as otherwise required by law, any reports, opinions, or documents used or

prepared by the Consultants or their staff shall be used for the purposes of this case only and may not be used for any other purpose without the express, prior written consent of the Defendants.

44. Within a reasonable time after entry of this Consent Decree, such time period to be determined by the Consultants after conferring with the Parties, the Consultants will:

- a. Advise the Department with respect to the Department's planning, design, and implementation of the methods necessary to address short and long-term compliance with the Plan and the timeframes for delivering competency evaluation and Restoration Treatment services to Class Members set out herein, and advise and assist the Department's implementation of the Consultants' recommendations.
- b. Advise the Department with respect to the Department's planning, design, and implementation of a system of data collection, analysis and reporting of data related to competency evaluation and Restoration Treatment, to include monthly reporting by the Department to the Consultants, and monthly reporting by the Consultants analyzing such data and making recommendations to the Department based on such data.
- c. Identify areas within the Department's statewide competency evaluation and restoration system that have caused, are causing, or may cause non-compliance with the timeframe requirements of this Consent Decree concerning competency evaluation and Restoration Treatment.

45. The Consultants are authorized to monitor, investigate and make findings regarding the Department's efforts to attain compliance with this Consent Decree's terms, including whether the Department has used Best Efforts to implement the Plan. During the term of this Consent

Decree, twice every annual calendar year, the Consultants shall submit to the Parties Bi-Annual Reports that: (i) report the Consultants' findings with respect to the Defendants' compliance, or lack thereof, with the terms of this Consent Decree; (ii) recommend strategies for, and guidance to, Defendants to address short and long-term compliance with the Plan and the timeframes for delivering competency evaluation and Restoration Treatment services to Class Members as set out in this Consent Decree; (iii) include a summary of the number of Class Members awaiting Restoration Treatment and the term of each Class Members' wait time; (iv) include a summary of any Fines assessed hereunder and the status of the Department's payment of such Fines, as described in Section VII; and (v) recommend additional injunctive relief, if any, the Court may consider to achieve the purposes and goals of this Consent Decree. The Department shall publish the Consultants' Bi-Annual Reports on the Department's website (<https://oklahoma.gov/odmhsas.html>) in a manner easily accessible to the public.

46. The Consultants may, in their sole discretion, submit additional reports to the Parties regarding the Defendants' compliance, or lack thereof, with the provisions of this Consent Decree, or on any other matter the Consultants deem helpful to achieve the purposes of this Consent Decree.

47. Defendants shall use Best Efforts to grant the Consultants reasonable access to all Department records, data, personnel, contractors, designees and competency restoration facilities necessary to perform the Consultants' duties under this Consent Decree. At the Consultants' request, the Department shall produce data in a format best suited for the Consultants' efficient review. As a component of their reporting and monitoring duties, the Consultants may select a sample of Class Members from the Defendants' monthly reporting to audit the timeliness of the delivery of competency evaluations and Restoration Treatment. The Consultants may include their

audit findings in any report submitted hereunder, but private or confidential information shall be redacted from any public filing and from the Bi-Annual Report to be posted on the Department's website.

48. The Consultants may, with the consent of the Parties, confer and subcontract with service providers (but not allow double billing), as determined by the Consultants in the exercise of their professional judgment would be helpful to the Consultants, the Court, or the Parties to accomplish the goals and purposes of this Consent Decree, including without limitation, the preparation of additional reports, studies, data-analysis, recommendations, research, or auditing of Fines assessed or paid under Section VII herein. A Party's refusal to consent to the Consultants' request to confer or subcontract with service providers may be submitted to the Dispute Resolution Process set out in Section VIII herein.

49. The Consultants shall have the authority to modify or excuse any timeframe imposed on Defendants or the Department in this Consent Decree. The Consultants shall report any timeframe modifications in their Bi-Annual Reports. Any Party's request to modify or excuse a timeframe imposed in this Consent Decree shall be decided in accordance with Dispute Resolution Process set out in Section VIII below.

50. During the term of this Consent Decree the Consultants may set and hold meetings with Parties, which may be conducted via videoconferencing or in-person, to review progress and compliance issues, identify continuing barriers, develop collaborative solutions and actions to implement the Plan, reduce the Waitlist and improve the conditions for mental health treatment of Class Members.

51. Neither the Consultants nor the Parties shall publicly disclose information obtained by the Consultants, which would otherwise be privileged or confidential, without consent of all

Parties and/or order of the Court. An order of the Court shall be sought when mental health information about individuals is sought to be publicly disclosed.

52. Whenever the Consultants are required to make any decision, finding, or recommendation, or to approve or adopt any Plan component or course of action, hereunder, a vote of at least a majority of the Consultants shall be required. Any findings or decisions made or adopted by the Consultants in accordance with the terms of this Consent Decree shall be binding on the Parties as if entered as a term of this Consent Decree until or unless modified or revoked by the Dispute Resolution Process (*see* Section VIII), by written agreement of the Parties, or by Court order.

53. The Department shall pay the Consultants for time incurred discharging their duties under this Consent Decree at a rate of \$450 per hour for professional services and \$200 per hour for travel time; and reimburse the Consultants for their reasonable expenses incurred discharging their duties under this Consent Decree, including travel and lodging expenses pursuant to the State Travel Reimbursement Act, 74 Okla. Stat. 2021 §§ 500.1-500.37. The Consultants shall submit monthly invoices to the Department detailing the Consultants' time and expenses, which the Department shall pay within forty-five (45) days of submission of the invoice.

## **VI. The Plan**

54. The Plan consists of the program components and obligations set out in this Section VI. The Plan is intended to improve the Department's delivery of competency evaluations and Restoration Treatment to Class Members, including significantly reducing the length of time Class Members wait for Restoration Treatment. Upon entry of this Consent Decree, Defendants shall use Best Efforts to develop and begin to implement the Plan in accordance with the terms of this Consent Decree. The Plan's components must be approved by the Consultants. Unless otherwise

provided below, within ninety (90) days after the Court enters this Consent Decree, Defendants shall, in consultation with the Consultants and Class Counsel, develop and begin to implement the Plan's program components described below in this Section VI. The Consultants' approval, or disapproval, of the Plan's components, and any of the Consultants' decisions, findings, or recommendations made in connection therewith, shall be subject to the Dispute Resolution Process set out in Section VIII below.

55. Whenever in this Consent Decree Defendants are required to "begin to implement" an action or a Plan component, Defendants shall thereafter complete the implementation within a reasonable time to be determined in consultation with the Consultants and Class Counsel.

56. Once the Plan has been developed and approved by the Consultants, the Plan may be modified only by written agreement of the Parties and the Consultants' approval; provided, however, that a Party's request to modify the Plan may be submitted to the Dispute Resolution Process in Section VIII.

57. **Reevaluation of Class Members Currently Waiting for Restoration Treatment.** Within ninety (90) days after the Court enters this Consent Decree, the Department must reevaluate every Class Member to determine if competency has been restored or if the Class Member is unlikely ever to be restored to competency, as set forth in 22 Okla. Stat. § 1175.1, excluding those Class Members assessed within the last thirty (30) days by a Qualified Forensic Examiner. All reevaluations must be performed by a Qualified Forensic Examiner. The Department may hire such personnel in and outside the State of Oklahoma licensed or authorized to perform the competency reevaluations within the State of Oklahoma. Such evaluations may be performed via videoconference. Defendants may begin reevaluations of Class Members under this Paragraph 57 at any time.

58. **Cessation of Current State-Wide In-Jail Restoration Program.** Plaintiffs dispute that Defendants ever implemented a legitimate state-wide competency restoration program consistent with generally accepted professional forensic standards. Within sixty (60) days after the Court enters this Consent Decree, the Department shall wind down and cease operating its alleged state-wide in-jail competency restoration program, with the exception of the In-Jail Restoration Pilot Program, as defined herein (see Paragraphs 74-76). The Department shall ensure that the medical and mental health needs of Class Members involved in the alleged state-wide in-jail restoration program when this Consent Decree is entered are protected and not harmed by the cessation of the alleged state-wide in-jail restoration program under this Paragraph 58. Class Members who are already receiving medication as part of existing mental health services when this Consent Decree is entered will continue to receive medication. The Parties acknowledge that the Sheriff of Tulsa County may be willing to dedicate a pod or pods of beds located within the Tulsa County Jail's campus for the Department to use for competency Restoration Treatment under this Paragraph, contingent, however, on the Department entering into a contract with the jail's governing authority in which the Department agrees to take exclusive responsibility for the Restoration Treatment program in the dedicated pods, including legal custody of Class Members who are placed in the pod(s) for Restoration Treatment.

59. Nothing in this Consent Decree shall be construed as preventing the Department from providing Class Members in county jails with necessary and appropriate medications, and related mental health treatment, as prescribed by a medical professional and other mental health services in accordance with 22 Okla. Stat. § 1175.6a.

60. The Department shall redirect the resources previously expended on its alleged state-wide in jail restoration program to the other elements of the Plan, including but not limited

to the In-Jail Restoration Pilot Program. Notwithstanding anything to the contrary in this Paragraph 60, the Department may, in good faith, provide enhanced mental health services to Class Members while still incarcerated in jail, provided that the Maximum Allowable Wait Times still apply to any Class Members receiving such enhanced mental health services. Such enhanced mental health services may be subject to the approval of the jails' governing authority or the jails' authorized mental health providers.

61. The Parties recognize that some Class Members may be restored to competency based upon enhanced mental health services and medications the Department may provide while a Class Member is in jail. Upon a good faith belief that a Class Member has been restored to competency while in jail, the Department shall utilize Best Efforts to have the Class Member reevaluated for competency within ten (10) days, excluding holidays and weekends, by a Qualified Forensic Examiner. The Maximum Allowable Wait Time and Fine provisions of Section VII shall apply to any Class Members the Department treats under this Paragraph 61.

62. **Increase of Inpatient Forensic Beds.** The Parties agree that a critical and necessary component of the Plan is to increase the Department's inventory of inpatient Forensic Beds dedicated solely to competency restoration. Within ninety (90) days after the Court enters this Consent Decree, the Defendants, in consultation with the Consultants and Class Counsel, shall develop and begin to implement a plan, that must be approved by the Consultants, to achieve a material increase in new inpatient Forensic Beds dedicated solely to competency restoration over the term of this Consent Decree; such plan must include the number of new Forensic Beds to be added, and the timeline(s) for bringing the new Forensic Beds on line, and should consider best practices for determining the reasonable number of new Forensic Beds to be maintained given the



State of Oklahoma's population growth, crime rate, and the effect of the Plan's components once the Plan has been developed and implemented.

63. **Forensic Inpatient Facilities and Staffing.** Within ninety (90) days after the Court enters this Consent Decree, Defendants, in consultation with Class Counsel and Consultants, shall develop and begin to implement a plan for staffing at OFC and addressing environment of care standards for forensic facilities, which ensures that OFC remains in compliance with its current accrediting-body standards,<sup>1</sup> as set forth in 42 CFR 482.62, 42 CFR 412.27, and OAC 317:30-5-95; such plan must be approved by the Consultants. Defendants shall take all necessary steps to ensure that OFC remains within accreditation standards during the duration of this Consent Decree.

64. **Continuing Education for OFC Psychiatrists, Psychologists, and Other Clinical Staff.** Within ninety (90) days after the Court enters this Consent Decree, Defendants shall, in consultation with the Consultants and Class Counsel, develop and begin to implement a plan to require all psychiatrists, psychologists, and other clinical staff involved in competency restoration at OFC and other facilities to participate in twelve (12) hours annually of continuing education on topics related to forensic mental health treatment including adjudicative competency; such plan must be approved by the Consultants.

65. **Competency Restoration Triage Process.** Within ninety (90) days after the Court enters this Consent Decree, the Department, in consultation with Class Counsel and the Consultants, shall develop a written triage screening protocol for Class Members who have been declared incompetent, which must be approved by the Consultants; such plan must include the

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<sup>1</sup> At the time of the entering of this Consent Decree, OFC is accredited through the Joint Commission (formerly known as the Joint Commission on Accreditation of Healthcare Organizations).

following: (i) reasonable deadlines for initial screening of Class Members who are declared incompetent; (ii) adoption of screening protocol consistent with current professional standards; (iii) establishment of triage levels designed to expedite placement of, and treatment plans for, Class Members; and (iv) adoption of qualification standards for the professionals providing triage services under this Paragraph 65.

66. After implementation of the competency restoration triage process, the Department shall keep adequate records of the competency restoration triage program so that the Consultants can monitor and evaluate the Department's progress with implementation of the competency restoration triage process.

67. **Performance of Competency Evaluations and Reevaluations.** The Department shall complete all court-ordered competency evaluations of pretrial detainees by Qualified Forensic Evaluators and submit their reports to the state district court for the county in which the pretrial detainee is held within thirty (30) days after the Department's receipt of a court order directing the evaluation and receipt of collateral materials such as police reports and treatment records for the pretrial detainee. The Department shall reevaluate Class Members at least once every ninety (90) days after receipt of the Order for Competency Restoration. A Treatment Rendering Provider, Class Members' state-court counsel or guardians, the District Attorney, or the Consultants may request that the Department reevaluate a Class Member at any time based on a good faith reasonable belief that the Class Member has regained competency, and such reevaluation will occur within thirty (30) days after receipt of such requests. The reevaluation requirements contained in this Paragraph 67 do not apply during the first ninety (90) days after entry of this Consent Decree while Defendants conduct the reevaluations of all Class Members required under Paragraph 57.

68. **Community-Based Restoration Treatment Pilot Program.** The Parties agree that: (i) certain Class Members who have been judicially determined not to be a substantial risk of harm to themselves and others if treated in a community placement, are amenable to receive Community-Based Restoration Treatment in a supervised, outpatient setting; (ii) Class Members amenable to Community Based-Restoration Treatment will avoid unnecessary institutionalization or incarceration, receive treatment in the least restrictive environment and reduce costs to the Department; (iii) the treatment of amenable Class Members in Community-Based Restoration Treatment will reduce the need for forensic inpatient beds to provide Restoration Treatment and free up forensic beds for other Class Members; and (iv) the development of an effective Community-Based Restoration Treatment program is a vital component to achieve compliance with the timeframes set forth in this Consent Decree for delivery of competency evaluations and Restoration Treatment to Class Members.

69. The Parties recognize that the development and implementation of an effective Community-Based Restoration Treatment program will require the input and participation of state court judges, prosecutors, and other non-parties to this Consent Decree. Within ninety (90) days after the Court enters this Consent Decree, Defendants, in consultation with Class Counsel and the Consultants, shall develop and begin to implement a plan, to be approved by the Consultants, for a pilot Community-Based Restoration Treatment Program in Tulsa County, Oklahoma County, McIntosh County and Muskogee County. The Community-Based Restoration Treatment Pilot Program shall include development of written policies and procedures for Class Members' eligibility and best practices for program implementation, in consultation with the Consultants, the Department's designated representative and its counsel, Class Counsel, and any other interested stakeholder approved by the Parties.

70. The Parties recognize that the Department is required by 22 O.S. § 1175.6a to provide appropriate outpatient treatment for competency restoration to qualified individuals regardless of whether they reside, or are incarcerated, in the four counties referred to in Paragraph 69; and this Consent Decree does not preclude Qualified Forensic Examiners or Treatment Rendering Providers from making such recommendations to the state court judges, nor does this Consent Decree preclude the Department from placing Class Members in appropriate outpatient treatment settings in accordance with 22 O.S. § 1175.6a and recommendations from the Qualified Forensic Examiners and/or Treatment Rendering Providers.

71. At the end of one-year of implementation of the Community-Based Restoration Treatment Pilot Program, the Parties, in consultation with the Consultants, the Department's designated representative and its counsel, Class Counsel, and any other interested stakeholders approved by the Parties, will evaluate the data, practices, and outcome of the pilot program to determine whether, and how, this Community-Based Restoration Treatment Pilot Program may be expanded to other Oklahoma counties.

72. Before a Class Member is released on bond to participate in the Community-Based Restoration Treatment Pilot Program, the Department shall:

- a. Develop a treatment plan (in a format approved by the Consultants) within seven (7) days, excluding weekends and holidays, of the order to all parties involved in the community-based services recipient's case and the community-based provider.
- b. Support processes to provide criminal courts, prosecutors, and defense attorneys with the information necessary to create tailored conditions for release of individuals into outpatient community restoration services.

- c. Conduct outreach and provide technical assistance to criminal courts and other stakeholders, upon request, to support the implementation of community outpatient restoration services, and to assist with issues such as determination of eligibility for outpatient restoration services, the conditions of an individual's participation in community outpatient restoration services and the use of residential supports and other services to encourage the use of community outpatient restoration services.

73. Notwithstanding the creation of the Community-Based Restoration Treatment Pilot Program in the four counties listed in Paragraph 69, the Department may place, or recommend placement of, any Class Member into appropriate community-based out-patient restoration treatment in the other 73 Oklahoma counties that are not part of the Community-Based Restoration Treatment Pilot Program. If such a community-based out-patient placement occurs, the Department shall provide the Consultants with the information and tracking data related to such placement.

74. **In-Jail Competency Restoration Pilot Program.** Within ninety (90) days after the Court enters this Consent Decree, the Defendants, in consultation with Class Counsel and the Consultants, shall develop and begin to implement a pilot in-jail restoration program in Tulsa County and in one other Oklahoma county, to be approved by the Consultants; such plan will include the development of written policies and procedures for best practices specific to the operation of an in-jail restoration program, including a triage process for identifying Class Members most amendable to in-jail Restoration Treatment. The Parties acknowledge that the development and implementation of this pilot program will depend significantly on the cooperation, participation, and input from the Sheriff of Tulsa County, and other stakeholders.

The Parties acknowledge that the Sheriff of Tulsa County may be willing to dedicate a pod or pods of beds located within the Tulsa County Jail's campus for the Department to use for competency Restoration Treatment under this Paragraph, contingent, however, on the Department entering into a contract with the jail's governing authority in which the Department agrees to take exclusive responsibility for the Restoration Treatment program in the dedicated pods, including legal custody of Class Members who are placed in the pod(s) for Restoration Treatment.

75. After it becomes operational, the Department shall operate the In-Jail Competency Restoration Pilot Program for a period of not less than one year. During that one-year period, the Defendants and the Consultants will gather and analyze data about the pilot program's effectiveness in providing Restoration Treatment to Class Members, including the number of patients who are restored or are not restored to competency, together with any other data the Consultants and Defendants deem relevant. By the end of the one-year period, the Consultants will determine, with input from the Department and Class Counsel, whether the In-Jail Competency Restoration Pilot Program:

- a. is an effective method of Restoration Treatment, such that it should continue and, if possible, be expanded to other Oklahoma counties which have similar resources and segregated facilities; or
- b. is not effective, in which event its use as a treatment option under this Consent Decree may be promptly terminated unless the Consultants prescribe additional steps to improve in-jail competency restoration's efficacy and the Department complies with and implements those steps.

76. If, after using Best Efforts, the Department is unable to implement a pilot in-jail restoration program in Tulsa County, the Department shall, in consultation with the Consultants

and Class Counsel, use Best Efforts to develop and begin to implement a pilot in-jail restoration program in another Oklahoma county, within ninety (90) days after the Department determines, with the Consultants' advice and consent, that a pilot program in Tulsa County is not feasible. Notwithstanding anything to the contrary stated in this Consent Decree, the Department may, at any time, with the prior approval of the Consultants and Class Counsel, develop and implement an in-jail restoration program in any other Oklahoma counties in which the county jail's governing authority has expressed a willingness to support an in-jail restoration program and has committed sufficient resources to support a successful program.

77. **Additional Department Staffing Requirements.** Within ninety (90) days after the Court enters this Consent Decree, the Defendants, in consultation with Class Counsel and the Consultants, shall develop and begin to implement a plan to staff the Department with individuals tasked and qualified to: (i) oversee the Department's competency evaluation and restoration programs, including the Plan's programs; and (ii) gather, report, and analyze data associated with these programs and (iii) aide support the stakeholders with navigation of these programs; and (iv) any other area the Department and Consultants deem necessary to accomplish the goals and purposes of this Consent Decree.

78. **Increased Training to Relevant State Personnel.** After entry of this Consent Decree, the Department shall offer initial and periodic training to Oklahoma state district court personnel, county sheriffs, and members of the Oklahoma State Bar concerning persons ordered to receive competency evaluations and Restoration Treatment and regarding the procedures for, and resources related to, the Department's provision of competency evaluations and Restoration Treatment to criminal defendants.

79. By twelve (12) months after entry of this Consent Decree, the Department shall offer training to the district court personnel and sheriffs for each of Oklahoma's 77 counties regarding its obligation to provide timely competency evaluations and Restoration Treatment under this Consent Decree, and the cooperation needed from court personnel and sheriffs to help the Department meet the timelines specified in this Consent Decree.

80. By twelve (12) months after entry of this Consent Decree, the Department shall distribute to each Oklahoma district court a publication, whose content is mutually agreed upon by the Defendants, the Consultants, and Class Counsel, for dissemination to attorneys representing persons ordered to receive competency evaluations or Restoration Treatment, describing the Defendants' obligation to provide timely competency evaluations and Restoration Treatment under this Consent Decree, and the cooperation needed from defense counsel to help the Defendants' meet the timelines specified in this Consent Decree.

81. Within ninety (90) days after the Court enters this Consent Decree, Defendants, in consultation with Class Counsel and the Consultants, shall develop and begin to implement a plan for the training program contemplated in Paragraphs 78-80.

82. **Status Reports.** No later than the tenth (10<sup>th</sup>) day of every month during the term of this Consent Decree, Defendants shall submit to the Consultants and Class Counsel a Status Report accurately reporting the status of all Class Members then waiting for Restoration Treatment. Each report must include the following information for each Class Member: (i) the Class Member's name and criminal case number; (ii) the state district court that entered the Class Member's Custody Order or Commitment Order and the date of entry; (iii) the date OFC or the Department received the Custody Order Commitment Order; (iv) the name of the jail where the Class Member is being held; (v) the dates on which the Class Member was screened through the



Competency Restoration Triage Process set out in Paragraph 65 above, or otherwise, and the results of such screenings, including the current disposition of the Class Member for Restoration Treatment; (vi) the date on which the Class Member began receiving Restoration Treatment and the location where, or program in which the Class Member is receiving Restoration Treatment; (vii) the date, if any, on which the Class Member left Department custody for any reason, a statement of the reason and, if applicable, including the name and location of the facility or other setting to which the Class Member was transferred; (viii) the number of days the Class Member has spent on the Waitlist; and (ix) progress toward, and status of, the planning, design, and implementation of the Plan components described in Section VI of this Consent Decree.

83. The Status Report shall also state: (i) the Waitlist data together with the range, average, central tendencies, and trends of Class Members' days on the Waitlist; (ii) for each Class Member, whether Defendants have complied with the timeframes requirements of Section VII, if applicable; (iii) the reasons, if applicable, for Defendants' noncompliance with the timeframe requirements of Section VII; and (iv) if applicable, a calculation of any Fines due under Paragraph 92. Over the term of this Consent Decree, the Consultants may, after consultation with the Parties, request that different or additional data be included in the Status Reports reasonably related to the Consultants' duties hereunder.

84. Defendants shall give the Consultants access to all aggregate data used by the Defendants in producing Status Reports.

## **VII. Measures of Plan Compliance and Fines**

85. **Timely Restoration Treatment.** Defendants shall use Best Efforts to meet the objective of providing all Class Members with timely and appropriate Restoration Treatment in accordance with the terms of this Consent Decree. Pursuant to the Competency Restoration Triage

Process in Paragraph 65 above, and without any unnecessary delay, Defendants shall transport or direct transportation consistent with 22 Okla. Stat. § 1175.6a of Class Members to the appropriate program or location for Restoration Treatment.

86. **Deadlines for Reduction in Maximum Allowable Wait Time.** The Department, acting through the Defendants, shall be subject to the following deadlines for admitting Class Members to Restoration Treatment:

- a. No later than seven (7) months after entry of this Consent Decree, Defendants shall reduce the Maximum Allowable Wait Time to sixty (60) days.
- b. No later than ten (10) months after entry of this Consent Decree, Defendants shall reduce the Maximum Allowable Wait Time to forty-five (45) days.
- c. No later than thirteen (13) months after entry of this Consent Decree, Defendants shall reduce the Maximum Allowable Wait Time to thirty (30) days.
- d. No later than sixteen (16) months after entry of this Consent Decree, Defendants shall reduce the Maximum Allowable Wait Time to twenty-one (21) days.

87. **Suspension of Deadlines Because of Special Circumstances.** Defendants' ability to perform their obligations under this Consent Decree in a timely manner may depend on special circumstances beyond their control. Subject to the following terms and conditions, the Maximum Allowable Wait Time deadlines may be suspended with respect to one or more Class Members based only upon the following circumstances that must be beyond Defendants' control:

- a. Orders of a court that will delay Defendants' performance; motions filed on behalf of the Class Member that will delay Defendants' performance; a jail's failure or refusal to clear the Class Member for admission to one of Defendants' facilities; or medical conditions that prevent a Class Member's admission to OFC. Circumstances in this category shall be referred to as "Individual Special Circumstances."
- b. A national or local disaster impacting admissions of one or more of Defendant's facilities; a labor action that substantially impedes the continued operation of a facility relevant to the performance of Defendants' obligations under this Consent Decree; or an extraordinary and unanticipated increase in the number of court-ordered competency restoration referrals over a period of at least ninety (90) days. Circumstances in this category shall be referred to as "Departmental Special Circumstances."
- c. Any other unforeseen circumstances may allow for the suspension of the Maximum Allowable Wait Time deadlines upon unanimous approval by the Consultants.

88. The failure or refusal of the Oklahoma Legislature to adequately fund the Departments' operations or programs, or staffing shortages not due to a coordinated labor action, shall not be grounds for a suspension of the Maximum Allowable Wait Time deadlines, the Fines assessed hereunder, or any other provision of this Consent Decree. If, at any time during the term of this Consent Decree, Defendants conclude they must suspend the Maximum Allowable Wait Time deadlines on account of an Individual Special Circumstance, Departmental Special

Circumstance, or an approved unforeseen circumstances in accordance with paragraph 87(c) herein, the Defendants shall immediately give the Consultants and Class Counsel written notice thereof (the “Suspension Notice”). The Suspension Notice shall state: (i) whether the special circumstance is an Individual or Departmental Special Circumstance, or an approved unforeseen circumstances in accordance with paragraph 87(c) herein; (ii) the names of all Class Members who will be affected by the proposed suspension; and (iii) all of the facts constituting the special circumstance. The Suspension Notice shall also state which specific deadline(s) must be suspended and for what specified period(s).

89. Any suspension proposed in the Suspension Notice shall begin on the date on which the notice is received by the Consultants and Class Counsel, and shall terminate at the end of the temporary period of suspension, as set forth in the Suspension Notice, unless modified by the Parties’ written agreement or through the Dispute Resolution Process.

90. No suspension of any deadline shall last longer than is justified by the special circumstance identified in the Suspension Notice.

91. If the Consultants object to Defendants’ requested suspension in the Suspension Notice, the Consultants will promptly provide Defendants and Class Counsel a written objection, and the Parties shall promptly confer in good faith to resolve the issue. If the Parties are unable to resolve the issue after a good faith conference, they will submit the matter to the Consultants for mediation in accordance with the Dispute Resolution Process set forth in Section VIII below, in which Class Counsel may participate. If, after completion of the Dispute Resolution Process, including if applicable, the Court’s ruling upon review of the Consultants’ Decision (as defined below), the Department’s requested suspension is found to be invalid, contrary to the terms of this Consent Decree, or is otherwise overruled or rejected, any Maximum Allowable Wait Time

deadlines that were exceeded as a result of the suspension shall be subject to the Fines provisions of this Section VII.

92. **Daily Fines for Non-Compliance with Timeframes.** Beginning on the first day of the seventh (7<sup>th</sup>) calendar month after entry of this Consent Decree (such month and each first month of every calendar year thereafter called the “Starting Month”), and for the term of this Consent Decree, Defendants shall be subject to the following deadlines and Fines:

- a. \$100 per day for each Class Member waiting more than thirty (30) days for his or her competency evaluation to be submitted to the district court in the county in which he or she is being held in accordance with Paragraph 67 above.
- b. \$100 per day for each Class Member waiting 1-7 days over the Maximum Allowable Wait Time for admission to, or initiation of, Restoration Treatment.
- c. \$200 per day for each Class Member waiting 8-30 days over the Maximum Allowable Wait Time for admission to, or initiation of, Restoration Treatment.
- d. \$400 per day for each Class Member waiting more than thirty (30) days but less than sixty (60) days over the Maximum Allowable Wait Time for admission to, or initiation of, Restoration Treatment.
- e. \$500 per day for each Class Member waiting sixty (60) days or more over the Maximum Allowable Wait Time for admission to, or initiation of, Restoration Treatment.

- f. Such Fines hereunder shall not exceed in any twelve-month period starting on the first day of the Starting Month of each calendar year: (i) \$3.5 million for the first twelve (12) month period; (ii) \$5.5 million for the second twelve (12) month period; and (iii) \$7 million for every twelve (12) month period thereafter for the duration of this Consent Decree.
- g. The Fines established in sub-paragraph (f) above shall be increased for inflation yearly pursuant to the CPI-U as of the Starting Month of each twelve (12) month period compared to the Starting Month of the prior twelve (12) month period.
- h. Any liquidated damages awarded by the Court under Paragraph 100 for Material Violations shall not be counted toward this cap.

93. **Fines/Interest Bearing Account.** The Department shall accompany its Status Report with a separate “Fines Report” which will include the names of the Class Members for whom the Department has accrued a Fine during the preceding month, the number of days each of the Class Members waited for Restoration Treatment or a competency evaluation past the timeframes for compliance, and the total Fines owed by the Department for the preceding month.

94. The Department shall pay the total Fines owed on the date the Fines Report is submitted to the Consultants, to be deposited in an interest-bearing account (“Fines Account”). The Fines Account will be managed by a third party agreed upon by the Parties; the Parties will identify and agree to said third party no later than ninety (90) after entry of this Consent Decree. The funds in the Fines Account must be used for the purpose of funding or supporting services for people experiencing mental illness and competency issues in Oklahoma who are charged with

criminal charges, including the Class Members, and which the Department is not otherwise obligated to provide by law or under this Consent Decree.

95. Decisions concerning the use of funds in the Fines Account will be made by a Fines Committee consisting of representatives from Class Counsel, the Department, the Oklahoma Attorney General's Office, and the Consultants. Any disputes regarding the use of funds in the Fines Account shall be resolved through the Dispute Resolution Process described in Section VII below. The Department shall publish bi-annually a report summarizing any assessed Fines, the balance of the Fines Account, and the use or distribution of the funds in the Fines Account, on the Department's website (<https://oklahoma.gov/odmhsas.html>) in a manner reasonably accessible to the public.

#### **VIII. Dispute Resolution Process and Enforcement of Consent Decree**

96. Any Party may initiate the Dispute Resolution Process described in this Section VIII when: (i) a Party believes another Party has not complied with a provision of this Consent Decree; (ii) a Party disagrees or objects to the Consultants' findings, recommendations, approval or disapproval of any Plan component, or any other Consultants' decision made in discharge of their duties under this Consent Decree; (iii) a dispute arises with respect to the interpretation or implementation of any provision of this Consent Decree; or (iv) otherwise authorized by any provision of this Consent Decree. To initiate the Dispute Resolution Process, a Party must give written notice to the other Parties and the Consultants that includes a reasonably detailed description of the alleged noncompliance or other matter(s) being challenged, and the basis of the challenge ("Notice of Dispute"). Within fourteen (14) days of receipt of a Notice of Dispute, the Parties must meet and confer in good faith to attempt to resolve the noticed issues. If the Parties are unable to agree to a resolution in their meet and confer efforts, the Parties shall engage in

Consultants-led mediation for a period of no more than thirty (30) calendar days, which shall be initiated upon any Party's written request for mediation. The Consultants shall determine the mediation rules and procedures, including the time and location. If the Parties are unable to agree on a resolution following the thirty (30) calendar days after a Party requests mediation, the Consultants will promptly issue a written decision, including recommendations, if appropriate, with respect to the issues presented in the Notice of Dispute (the "Consultants' Decision"). A Consultants' Decision is binding on the Parties and immediately effective as a provision of this Consent Decree until and unless it is modified or rejected by the Court in accordance with the following Paragraph 97. The costs of a Consultants-led mediation, and the drafting and issuance of Consultants' Decisions, shall be borne by Defendants.

97. Any Party may file a motion with the Court seeking review of a Consultants' Decision, or seeking relief related to any issue embraced in a Notice of Dispute that led to a Consultants' Decision, including a request for contempt remedies for Material Violations. However, except for emergencies requiring immediate relief, no Party may seek relief for any dispute related to, or alleged non-compliance with, the terms of this Consent Decree without first obtaining a Consultants' Decision through the Dispute Resolution Process described in the preceding Paragraph 96. The Court, in considering a Party's motion for review of, or for relief related to, a Consultants' Decision will apply an arbitrary and capricious standard of review to Consultants' factual findings and recommendations.

98. For any motion to enforce the terms of this Consent Decree, to review a Consultants' Decision, or for other relief: (a) if Plaintiffs are the prevailing party, Plaintiffs and Class Counsel are entitled to recover their reasonable attorney fees and expenses in litigating the motion; and (b) if Defendants are the prevailing party, the fees incurred by the Defendants shall



be used to offset any fees which Class Counsel may be entitled to receive under this Consent Decree.

99. Notwithstanding anything to the contrary herein, any Party may file a motion with the Court seeking emergency relief to address emergencies requiring immediate relief.

100. **Material Violations.** If the Court finds that Defendants have committed a Material Violation of this Consent Decree, the Court may order immediate injunctive relief, impose liquidated damages, attorney's fees, or fashion any other relief deemed appropriate to address the Material Violations.

**IX. Attorney Fees and Expenses**

101. The Department agrees and is hereby ordered to pay to Class Counsel attorney fees in the amount of \$275,000 and litigation expenses in the amount of \$64,535 for services rendered by Frederic Dorwart Lawyers PLLC, and \$28,000 for services by the Oklahoma Disability Law Center, rendered through the investigation and filing of this Lawsuit until the filing of the Parties' *Joint Motion for Preliminary Approval of Entry of Joint Consent Decree*.

102. From the date of filing the *Joint Motion for Preliminary Approval of Entry of Joint Consent Decree* until the Court's final approval and entry of this Consent Decree, the Department agrees and is hereby ordered to pay to Class Counsel's attorney fees in the amount of \$325 per hour plus reasonable expenses.

103. After entry of this Consent Decree, the Department agrees and is hereby ordered to pay to Class Counsel's attorney fees in the amount of \$325 per hour for attorney time, \$125 per hour for paralegal time, and reasonable litigation expenses. Fees and expenses under this Paragraph 103 shall be paid on a quarterly basis. After entry of this Consent Decree, all Class

Counsel's fees shall be capped at \$75,000 per year, to be prorated for the calendar year in which this Consent Decree is entered.

104. At Defendants' request, Class Counsel will provide detailed time and expense records, no more frequently than on a quarterly basis, related to the attorney fees and expenses claimed in this Section IX. After the filing of the Parties' *Joint Motion for Preliminary Approval of Entry of Joint Consent Decree*, any dispute regarding the amount or reasonableness of Plaintiffs' attorney fees and expenses must be submitted to the Dispute Resolution Process set out in Section VIII above.

105. All attorney fees and litigation expenses paid under this Section IX shall be paid into the trust account of Frederic Dorwart, Lawyers PLLC.

**X. Additional Provisions**

106. **Term.** The term of this Consent Decree shall be five (5) years from the date of its final approval and entry by the Court, provided, however, if the Consultants determine that Defendants have not achieved substantial compliance with any aspect of the Plan, or with the timelines for the provision of screenings, competency evaluations, or Restoration Treatment specified in this Consent Decree for at least the nine (9) consecutive months preceding the end date of this Consent Decree, Plaintiffs may, at least ninety (90) days before the end date of this Consent Decree, file a motion to extend the duration of this Consent Decree and this Court's jurisdiction thereover. Upon the filing of such a motion, the Court shall determine, after an evidentiary hearing, whether Defendants have achieved substantial compliance. If the Court finds Defendants have not achieved substantial compliance for at least the nine (9) consecutive months preceding the hearing on Plaintiffs' extension motion, the Court may extend the term of this Consent Decree and retain jurisdiction for a period of time determined by the Court to ensure that

Defendants come into compliance. If the Court determines that Defendants have achieved substantial compliance, the Court may terminate this Consent Decree at the five-year end date.

107. **Annual Department Comprehensive Plan.** Within thirty (30) days of each annual anniversary of the entry of this Consent Decree, the Department will submit to the Consultants and Class Counsel an Annual Department Comprehensive Plan, that: (i) reviews data from the previous year related to the delivery of competency evaluations and Restoration Treatment; (ii) reviews data regarding projections for volume and capacity for the coming year; and (iii) identifies specific actions the Defendants will take internally and will propose legislatively to address and improve their compliance with this Consent Decree year-to-year.

108. **Legislative Action.** The Parties will not propose, sponsor, or support any legislation that would violate or conflict with the terms of this Consent Decree. Defendants shall provide the Consultants and Class Counsel with all budget requests and proposed legislation affecting this Consent Decree when they are sent to the Oklahoma Legislature. The Consultants shall provide their opinion and recommendations on the proposed legislation and how it could impact compliance with this Consent Decree. The Department shall provide a copy of the final budget approved by the Oklahoma Legislature to the Consultants immediately following approval of the budget.

109. **Persons Bound.** This Consent Decree shall be binding on all Defendants and their successors, together with their officers, agents, and employees, unless otherwise prohibited by state or federal law.

110. **Representations and Warranties.** Each Party to this Consent Decree represents, warrants, and agrees as follows:

- a. It has fully and carefully reviewed this Consent Decree prior to its execution by an authorized representative.
- b. The persons executing this Consent Decree are authorized by the Parties to do so.
- c. It has consulted with its attorneys regarding the legal effect and meaning of this Consent Decree and all terms and conditions thereof, and that it is fully aware of the contents of this Consent Decree and its legal effect.
- d. It has had the opportunity to make whatever investigation or inquiry it deems necessary or appropriate in connection with the subject matter of this Consent Decree.
- e. It has not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity any claims that it might have against the other.
- f. It is executing this Consent Decree voluntarily and free from any undue influence, coercion, duress, or fraud of any kind.

111. **Waiver.** No waiver of any of the provisions of this Consent Decree shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

112. **No Prejudice to Class Members' Rights in Their Criminal Cases.** Nothing in this Consent Decree is intended to, nor does, prejudice, limit, or restrict any rights, remedies, or arguments otherwise available to Class Members in their individual criminal cases pending in Oklahoma state court.

113. **Modification.** This Consent Decree cannot be modified except by written agreement of the Parties in consultation with the Consultants and approved by the Court, or by Court order.

114. **Notices.** Any notice, report, or other communication required or permitted under this Consent Decree shall be in writing and shall be deemed to have been duly given when: (i) mailed by United States registered or certified mail, return receipt requested; (ii) mailed overnight express mail or deposited for delivery with any other nationally recognized overnight or same-day delivery service; (iii) sent as a PDF attachment to electronic mail; or (iv) delivered in person, to the Parties at the following addresses:

To Plaintiffs/Class Members/Class Counsel:

Paul DeMuro, OBA No. 17605  
Frederic Dorwart, OBA No. 2436  
Frederic Dorwart, Lawyers PLLC  
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Tulsa, OK 74103  
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(918) 583-8251 – facsimile  
pdemuro@fdlaw.com  
fdorwart@fdlaw.com

Nick Southerland, OBA No. 31234  
Brian S. Wilkerson, OBA No. 17165  
Oklahoma Disability Law Center, Inc.  
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Tulsa, OK 74105  
(918) 743-6220 – telephone  
(918) 743-7157 – facsimile  
nick@okdlc.org  
brian@okdlc.org

To Defendants:

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To Consultants:

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A Party or a Consultant may change the names or addresses where notice is to be given by providing notice to the other Parties and the Consultants of such change in accordance with this Paragraph 114.

**XI. Reservation of Jurisdiction and Final Judgment**

115. The Court hereby retains continuing jurisdiction over this Consent Decree to enforce its provisions, and to take other actions ancillary thereto, for the term of this Consent Decree.

116. Upon the expiration of the term of this Consent Decree, any Party may move for dismissal with prejudice of all claims in the Lawsuit, if, at the end of the term, no Party moves for dismissal, the Court shall enter an order to show cause why all claims should not be dismissed with prejudice.

117. Based on the papers filed in this Lawsuit, the representations of the Parties' counsel, and the stipulations contained herein, the Court hereby enters this Consent Decree as a final judgment under Federal Rules of Civil Procedure 54 and 58.

IT IS SO ORDERED, this \_\_\_ day of \_\_\_\_\_, 2024.

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Honorable Gregory K. Frizzell  
United States District Court Judge

*[Counsel's signature blocks on following page.]*

APPROVED AS TO FORM AND CONTENT:

Date: \_\_\_\_\_

\_\_\_\_\_  
Paul DeMuro, OBA No. 17605  
Frederic Dorwart, OBA No. 2436  
David Leimbach, OBA No. 33310  
Frederic Dorwart, Lawyers PLLC  
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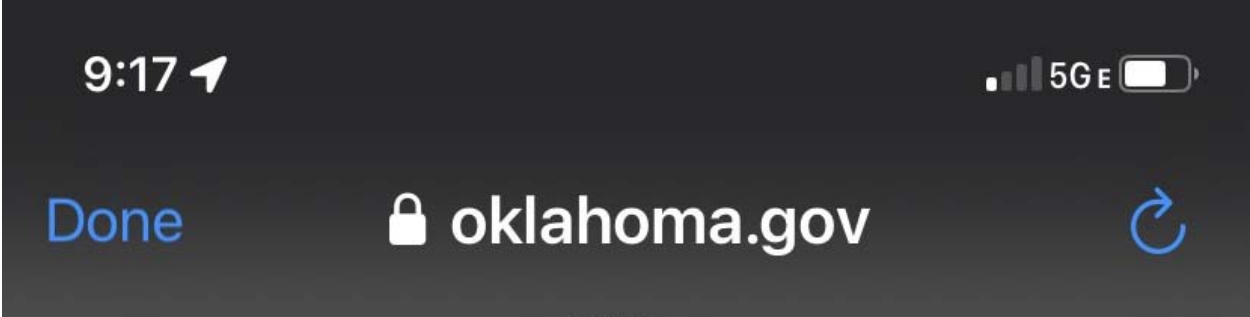
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***Class Counsel for Plaintiffs***

Date: \_\_\_\_\_

\_\_\_\_\_  
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***Counsel for Defendants***



## **Exhibit 2**



1 of 1



OFFICE OF

No. SB 552

**THE GOVERNOR**  
STATE OF OKLAHOMA

OKLAHOMA CITY, OKLA.,

*June 9*, 20*23*  
TIME SIGNED: *3:48 pm*

TO THE HONORABLE PRESIDENT PRO TEMPORE  
AND MEMBERS OF THE OKLAHOMA SENATE  
FIRST REGULAR SESSION OF THE  
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED SENATE BILL NO. 552:

Pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution, I have vetoed Enrolled Senate Bill 552.

Enrolled Senate Bill 552 would, in many instances, require county jails to hold and provide restorative treatment, therapy, or training for individuals deemed incompetent prior to conviction. Currently, the Department of Mental Health and Substance Abuse Services is, by statute, generally expected to take custody of those individuals and provide necessary competency restoration services. This, of course, does not prohibit jails from providing treatment options while individuals wait for space to become available through the Department; many jails do, in fact, provide some level of restorative services.

Nonetheless, we must do a better job addressing rampant mental health issues plaguing our society. This includes taking a hard look at the methods and structures being used to restore to competency those criminal defendants who may be afflicted by mental health disorders. Although this Bill is well intended, it is not the right solution at this time. For instance, many county jails do not yet have necessary treatment staff, environments, and frameworks in place to handle the responsibilities this Bill would create.

I urge stakeholders such as district attorneys, law enforcement officials (e.g. sheriffs), the Department of Mental Health and Substance Abuse Services, and other mental health professionals to collaborate well before the next legislative session to identify creative solutions available to address the overarching issues—where (e.g. outpatient-type treatment) and how we meaningfully treat and restore individuals temporarily deemed incompetent to stand trial. Many solutions are surely available without the need for legislative changes. If we are to implement legislative mandates, we must first ensure the requisite structures are in place.

For these reasons, I have vetoed Enrolled Senate Bill 552.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

*K. I. Gayle*

## **Exhibit 3**

**William Neil Gowensmith, Ph.D.**  
**Associate Clinical Professor and Licensed Clinical & Forensic Psychologist**

**Work Address**

2460 S. Vine St, University of Denver  
Denver, Colorado 80208

**Contact information**

(828) 738-6694 (cellular)  
[neil.gowensmith@gmail.com](mailto:neil.gowensmith@gmail.com)

**EDUCATION**

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**Post-doctoral Residency in Forensic Psychology**

**Forensic Psychology (APA Accredited Specialty Practice Program in Forensic Psychology)**

Saint Elizabeths Hospital, Washington D.C.

Forensic Inpatient Services & Bureau of Legal Services Divisions

September 1999 to September 2000

**Clinical Internship**

**Internship in Clinical Psychology (APA Accredited)**

Honolulu Veterans Affairs Medical & Regional Office Center, Hawaii

September 1998 to September 1999

**Ph.D.**

**Counseling Psychology (APA Accredited)**

Colorado State University, Fort Collins, Colorado

Awarded: Summer 1999

**B.A.**

**Psychology**

The University of Texas at Austin, Austin, Texas

Awarded: December 1992

**AFFILIATIONS AND PROFESSIONAL ACTIVITIES**

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- Licensed Psychologist, Colorado
- Member, American Psychological Association
- Member, American Psychology-Law Society
- Member, Colorado Psychological Association

## **CLINICAL AND ADMINISTRATIVE EXPERIENCE**

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### **Associate Professor**

Graduate School of Professional Psychology, University of Denver  
September 2011 to present  
Supervisor: Lavita Nadkarni, Ph.D.

Half-time faculty responsibilities:

Teach multiple courses in forensic psychology to master's level graduate students. Create, prepare, teach, monitor, and evaluate courses and student performance. Advise multiple graduate students on academic and programmatic progress. Oversee research paradigm in forensic psychology, including the supervision of multiple research assistants. Submitted successful grant proposals for student involvement in service-based grant opportunities. Engage in hiring and student selection committees, student capstone requirements, and other departmental activities. Chair or co-chair doctoral student research committees. Performed a program evaluation for the College Gateway Program at Red Rocks Community College. Created a thriving research lab with master's level students. Led groups of DU students on a service-learning course to South Africa in 2013 and 2016. Created and directed a postdoctoral fellowship in forensic psychology in fall 2016. Received Service Learning Faculty of the Year Award in 2014.

Half-time administrative responsibilities:

Creator and director of the University of Denver's Forensic Institute for Research, Service and Training (Denver FIRST), a regional hub for research, consultation, trainings and service to Colorado and adjacent Western states since July 2014. As director, have directly supervised more than 75 psychological evaluations and provided an apprenticeship model to 12 doctoral students. Also as director, have conducted multiple research projects, published multiple peer-reviewed articles, presented to more than 700 participants, and mentored 33 forensic master's students in 28 regional and national conference presentations and 12 publication co-authorships. Created and supervised a post-doctoral fellowship in forensic psychology in 2016. Also created Colorado's first and largest outpatient competency restoration program, which has demonstrated good outcome results for more than 150 defendants to date. Serve on multiple legislative and policy committees, respond to media requests, and consult with multiple jurisdictions and states nationwide on forensic public policy issues.

### **Private Practice**

Groundswell Services, Inc.  
January 2013 to present

Provide evaluations for a host of forensic mental health questions raised in court proceedings, including competency to stand trial, criminal responsibility, violence risk, mitigation, aid in sentencing, immigration, Miranda waivers, second opinions, diagnosis, psychopathy, evaluation reviews, and other issues. Consult with the states of Colorado, Nebraska, Washington, Texas, Pennsylvania, Utah, California, Hawaii as well as the Colorado Department of Corrections and Los Angeles County on forensic mental health services, statutes, and policies. Qualified as an expert for courtroom testimony nine times in Colorado, Hawaii, and in federal court. Qualified as an expert in capital cases.

### **Lead Consultant**

Groundswell Services, Inc.  
US Federal Court, Colorado  
January 2019 to present

Serve as Special Master for the US Federal Court's oversight of the litigation between Colorado's Department of Human Services and the Colorado Disability Law Center. Assist in mediation between the parties in creation of a binding consent decree. Fulfill all obligations in consent decree, including assisting CDHS with implementation of new programs, development of new staff positions, and monitoring progress through data collection and analysis. Primary focus is on reducing waitlists for people adjudicated as incompetent to proceed, ordered to competency restoration, and waiting in county jails for transfer to restoration services.

Los Angeles County Department of Diversion and Reentry  
December 2018 to present

Provide ongoing consultation and recommendations for the Los Angeles County Jail, LA County outpatient competency restoration program, and other related diversion programs. The project focuses on finding alternatives to lengthy county jail incarceration for low-level offenders facing competency-related services. This follows a 2016 collaboration with the same department focused on setting context and planning for the increase in competency-related service referrals in 2015. The current project goals are to determine accurate numbers and profiles of offenders suitable for alternatives to county jail incarceration, and may include improvements / capacity-building for outpatient restoration, improved mental health care and triage of competency cases in the county jail, or development of alternatives to the competency-related service process in Los Angeles.

Groundswell Services, Inc.  
State of Washington's Department of Social and Human Services  
December 2013 to present

Provide ongoing consultation and recommendations for the State of Washington's forensic mental health system. Surveyed more than 100 individuals across more than twenty relevant criminal justice and mental health agencies. Produced report with practical and measurable recommendations. Served as lead expert for Washington's Department of Social and Human Services in *Trueblood v Washington (2015)*. Helped develop long-term plan and helped develop a system of outpatient competency restoration programs in various settings. Continue to provide consultation and expertise regarding public forensic mental health policy on issues such as outpatient competency restoration, forensic administrative infrastructure, conditional release of insanity acquittees, hospital policy, and treatment methodologies.

**Forensic Evaluator**

Colorado Mental Health Institute at Pueblo, State of Colorado

September 2012 to June 2014

Supervisor: Thomas Gray, Ph.D.

Conducted more than 100 Competency to Proceed evaluations as ordered by the criminal court. Conducted evaluations in jails and outpatient settings in the Denver metro area and beyond. Incorporated psychological, diagnostic, malingering, cognitive, and forensic testing as necessary. Submitted reports in a timely fashion and in accordance with departmental and state regulations. Consulted on administrative initiatives such as statutory proposals, outpatient forensic programming, and research proposals. Provided training and consultation to evaluators statewide.

**Technical Assistance and Research Psychologist**

Western Interstate Commission on Higher Education

September 2011 to August 2012

Supervisor: Mimi McFaul, Psy.D.

Provided consultation on forensic mental health issues to the 15 westernmost states. Consulted with stakeholders in Hawaii and other experts in Alaska and Colorado to plan, implement, and manage a pre-doctoral psychology internship in Hawaii (HI-PIC). The internship consortium includes a forensic mental health rotation as a primary training site. Collaborated on grant-writing and grant-management teams.

**Chief of Forensic Services:**

Department of Health, State of Hawaii

August 2006 to September 2011

Supervisor: Bill Sheehan, M.D.

Directed the forensic mental health services for the Adult Mental Health Division for the State of Hawaii. This included a statewide population of approximately 1500 outpatient and 500 inpatient consumers per year. Supervised a statewide staff of 20 individuals, including 11 psychologists, across more than 12 programs and services. Chaired several committees, implemented and analyzed data collection for each program, ensured that current best practices were incorporated statewide, and participated and led in several legislative work groups and task forces. Planned, created, implemented and monitored multiple community-based forensic programs, including outpatient competency restoration, pre- and post-booking jail diversion, step-down housing program for insanity acquittees, court-based clinics, and a phased program for conditionally-released insanity acquittees. Designed and completed several local and national research studies. Created, directed and supervised practicum, pre-doctoral internship, and post-doctoral fellowship programs. Received multiple grants to fund key programs. Oversaw training and quality of all court-ordered mental health examinations and examiners statewide. Earned recognition as a 2008-2009 Department of Health Team of the Year.

**Forensic Coordinator:**

Department of Health, State of Hawaii  
March 2004 to August 2006  
Supervisors: Wayne Law and Reneau Kennedy, Ed.D.

Operated as Hawaii's first state-employed community forensic psychologist, with a primary focus on overseeing risk factors for recidivism, violence, and clinical decompensation in Hawaii's legally encumbered mental health population. Provided supervision to non-licensed psychologists, developed forensic workforce, and provided forensic consultation and trainings to staff and consumers statewide.

**Academic Program Director / Instructor:**

Global Stewardship Study Program (GSSP), Belize, Central America  
January 2003 to January 2004, May 2005  
Supervisor: Gordon Aeschliman

Directed international, university study-abroad program located in Belize, Central America. Taught psychology courses, supervised assistant directors, and worked with multicultural, international staff to provide a safe and positive learning environment for students. Oversaw academic integrity of the program while emphasizing social justice and diversity issues.

**Staff Psychologist:**

New Jersey State Prison, Trenton, New Jersey  
January 2001 to December 2002  
Lead Psychologist: David Starkey, Ph.D.

Managed multidisciplinary team providing mental health treatment, crisis stabilization, and assessment of risks for violence and suicide to approximately 250 maximum-security inmates. Also provided lead supervision for female inpatient crisis unit, overseeing all components of acute mental health treatment.

**Psychology Post-doctoral Fellow:**

John Howard Pavilion, St. Elizabeths Hospital, Washington D.C.  
September 1999 to September 2000  
Supervisors: Maureen Christian, Ph.D., Sidney Binks, Ph.D., Michael Lipscomb, Ph.D.

Provided therapy, psychological assessment, and consultation to forensic populations in inpatient maximum security psychiatric hospital, outpatient forensic department, county jail, and courthouse cell block settings. Developed emphases on assessment of risk for violence, assessment of competency, and competency restoration.



**Clinical Psychology Intern:**

Honolulu Veterans Affairs Medical & Regional Office Center, Honolulu, Hawaii

September 1998 to September 1999

Supervisor: Kathleen McNamara, Ph.D.

Completed pre-doctoral psychology internship in clinical psychology with rotations in neuropsychology, inpatient acute treatment, day treatment with the chronically mentally ill, health psychology, and forensic psychology.

## **TEACHING EXPERIENCE**

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### **Assistant Professor:**

University of Denver

Introduction to Statistical Methods (2011 - 2020)

Ethics in Forensic Psychology (2011 - 2013)

Practicum / Case Conference (2012 - 2021)

Treatment and Evaluation of the Adult Offender (2012 - 2021)

Public Policy and Forensic Mental Health (2012 - 2021)

Criminal Evaluations (2012 - 2021)

International Service Learning South Africa (2013, 2016, 2018)

Applied Research (2015 - 2021)

### **Instructor:**

University of Hawaii at Manoa

Introduction to Statistical Techniques (2005, 2006, 2008)

Experimental and Research Methods (2006, 2007, 2008)

Introduction to Forensic Psychology (2008, 2009, 2011)

Introduction to Forensic Psychology online (2012, 2013, 2014, 2016, 2017, 2019)

Psychopathology online (2011)

### **Adjunct Faculty:**

Argosy University, Honolulu

Diagnostic and Assessment Practicum (2011)

Forensic Assessment (2011)

### **Instructor:**

Global Stewardship Study Program, Belize

Global Psychology (2003, 2005)

### **Instructor:**

Colorado State University, Fort Collins, Colorado

Introduction to Psychology (1996)

Abnormal Psychology (1997)

Pre-practicum / Introduction to Counseling Techniques (GTA 1998)

### **Team Leader:**

South Africa Community Fund, Cape Town, Republic of South Africa

2002, 2003, 2005, 2009

## **RESEARCH INTERESTS**

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**Standards of forensic evaluation:** Reliability, validity and quality of forensic evaluation reports, certification and qualification of forensic evaluators, state certification processes

**Competency to stand trial evaluation and restoration:** Contrasting models of competency restoration, effectiveness and models of outpatient and jail-based competency restoration, infrastructural and clinical approaches to managing increasing numbers of competency evaluation referrals

**Insanity acquittees and conditional release:** Management and supervision of insanity acquittees on conditional release, decision-making in evaluators of conditional release requests, recidivism and rehospitalization of insanity acquittees on conditional release

**Cross-cultural issues in forensic psychology:** Ethnic and racial bias in forensic evaluation, comparisons and contrasts between forensic mental health systems in the United States versus other countries (South Africa in particular)

**Animal abuse evaluation:** Development of a measure for evaluation of propensity and risk for animal maltreatment

**Social justice in forensic mental health:** Investigation of unjust policing and correctional practices, evaluation of community re-entry programs, effective strategies to combat stigma / discrimination / criminalization of persons with mental illness

## **PUBLICATIONS**

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- Murrie, D. C., **Gowensmith, W. N.**, & Boccaccini, M. T. (in press). Competence to Stand Trial: Evaluation and Restoration Services. In Verona, E., & Fox, B. (Eds.), *Handbook of Evidence-Based Criminal Justice Practices*. Routledge.
- Gowensmith, W. N.** & Murrie, D.C. (2022). Competence Restoration amid a Competency Crisis. In B. Bornstein, M. Miller and D. DeMatteo (Eds.). *Advances in Psychology and Law (Volume 6)*. Springer.
- Gowensmith, W. N.**, McCallum, K. E., & Stout, H. G. (2022). Using a mobile app to identify base rates and monitor bias in forensic evaluation. *Journal of Forensic Psychology Research and Practice*. Advance online publication. <https://doi.org/10.1080/24732850.2022.2104146>
- Gowensmith, W. N.** & Murrie, D. C. (2022). Restoration of competency. In R. Roesch (Volume Ed.), *Psychology and Law*, a volume of *Routledge Encyclopedia of Psychology in the Real World*. New York: Routledge.
- Martin, D. A., Bailey, C. A., & **Gowensmith, W. N.** (2022). Ethical considerations of competency restoration: The risk of decompensation in correctional settings. *Psychology, Public Policy, and Law*. Advance online publication. <https://doi.org/10.1037/law0000356>
- Kruh, I., **Gowensmith, W. N.**, Alkema, A., Swenson, K., & Platt, D. (2021). Community-based remediation of juvenile Competence to Stand Trial: A national survey. *International Journal of Forensic Mental Health Services*, 1-13. <https://doi.org/10.1080/14999013.2021.2007431>
- Heilbrun, K., Giallella, C., Wright, H. J., DeMatteo, D., Griffin, P. A., **Gowensmith, W. N.**, Locklair, B., Ayers, D., Desai, A., & Pietruszka, V. (2021). Appraising Jackson-based unrestorability to competence to stand trial: The demonstration model. *Psychological Services*. Advance online publication.
- Heilbrun, K., Giallella, C., Wright, H. J., DeMatteo, D., Griffin, P. A., **Gowensmith, W. N.**, Locklair, B., Ayers, D., Desai, A., & Pietruszka, V. (2021). Jackson-based restorability to competence to stand trial: Critical analysis and recommendations. *Psychology, Public Policy, and Law*, 27(3), 370–386. <http://dx.doi.org/10.1037/law0000307>
- McCallum, K. E. & **Gowensmith, W. N.** (2020). The role of forensic evaluations in the criminalization of mental illness. In S. Stahl & K. Warburton (Eds.), *Decriminalizing Mental Illness*. Cambridge University Press.
- McCallum, K., & **Gowensmith, W. N.** (2020). Tipping the scales of justice: The role of forensic evaluations in the criminalization of mental illness. *CNS Spectrums*, 25(2), 154-160. doi:10.1017/S1092852919001275
- Brooks Holliday, S., Pace, N. M., **Gowensmith, W. N.**, Packer, I., Murrie, D., Virani, A., Han, B., & Hunter, S. B. (2020). *Estimating the Size of the Los Angeles County Jail Mental Health Population Appropriate for Release into Community Services*. Santa Monica, CA: RAND Corporation.

- Pillay, A. L., **Gowensmith, W. N.**, & Banks, J. M. (2019). Towards the development of a forensic psychology training curriculum in South Africa. *South African Journal of Psychology*, 0081246319879291.
- Gowensmith, W. N.** & Murrie, D. M. (January 28, 2019). *Groundswell response to CDHS plan*. (United States Federal Court District of Colorado, Civil Action No. 11-cv-02285-NYW).
- Gowensmith, W. N.** and McCallum, K. E. (2019). Mirror, mirror on the wall, who's the least biased of them all? Dangers and potential solutions regarding bias in forensic psychology evaluations. *South African Journal of Psychology*, 1-12. doi: 0081246319835117
- Gowensmith, W. N.** (2019). Resolution or resignation: The role of forensic mental health professionals amidst the competency services crisis. *Psychology, Public Policy, and Law*, 25(1), 1-14. doi: [10.1037/law0000190](https://doi.org/10.1037/law0000190)
- Gowensmith, W. N.** (2018). Thrills, chills, and social justice in forensic psychology. *Psychotherapy Bulletin*, 53, 32-36. [https://societyforpsychotherapy.org/thrills-chills-and-social-justice-in-forensic-psychology/?utm\\_source=Test+List&utm\\_campaign=4bbf599f77-EMAIL\\_CAMPAIGN\\_2018\\_05\\_08\\_COPY\\_02&utm\\_medium=email&utm\\_term=0\\_1120201d21-4bbf599f77-180264709](https://societyforpsychotherapy.org/thrills-chills-and-social-justice-in-forensic-psychology/?utm_source=Test+List&utm_campaign=4bbf599f77-EMAIL_CAMPAIGN_2018_05_08_COPY_02&utm_medium=email&utm_term=0_1120201d21-4bbf599f77-180264709)
- Gowensmith, W. N.**, Murrie, D. M., & Packer, I. K. (June 30, 2018). *Updated implementation plan for outpatient competency restoration*. (State of Washington's Department of Social and Health Services).
- Gowensmith, W. N.**, Murrie, D. M., & Packer, I. K. (May 25, 2017). *Implementation plan for outpatient competency restoration*. (State of Washington's Department of Social and Health Services).
- Gowensmith, W. N.** & Robinson, K. P. (2016). Fitness to stand trial evaluation challenges in the United States: Some comparisons with South Africa. *South African Journal of Psychology*, 47, 1-11. doi: 10.1177.0081246316673523
- Gowensmith, W. N.**, Peters, A., Lex, I. A. S., Heng, A., Robinson, K., & Huston, B. (2016). New frontiers for conditional release: Applying lessons learned from other offenders with mental illness. *Behavioral Sciences & the Law*, 34, 407-422. doi: 10.1002/bsl.2217.
- Gowensmith, W. N.**, Frost, L. E., Speelman, D. W., & Therson, D. E. (2016). Lookin' for beds in all the wrong places: Outpatient competency restoration as a promising approach to modern challenges. *Psychology, Public Policy, and Law*, 22(3), 293-305. doi: 10.1037/law0000088
- Gowensmith, W. N.**, Murrie, D. M., Boccaccini, M. T., McNichols, B. J. (2016). Field reliability influences field validity: Risk assessments of individuals found not guilty by reason of insanity. *Psychological Assessment*, 29(6), 786-794. doi: 10.1037/pas0000376
- Gowensmith, W. N.**, Sessarego, S. M., McKee, M., Horkott, S., MacLean, N., & McCallum, K. E. (2016). Diagnostic field reliability in forensic mental health evaluations. *Psychological Assessment*, 29(6), 692-700. doi: 10.1037/pas0000425
- Eddy, T., Gorgens, K., Meyer, L., Dettmer, J., & **Gowensmith, W.N.** (2015). Traumatic Brain Injury and Traumatic History. *The Colorado Psychologist*, 6, 6-7.

- Acklin, M.W., Fuger, K., & **Gowensmith, W. N.** (2015). Examiner agreement and judicial consensus in forensic mental health evaluations. Journal of Forensic Psychology Practice, *15*, 318-343. doi: 10.1080/15228932.2015.1051447
- Gowensmith, W. N.**, Pinals, D. A. & Karas, A. (2015). States' standards for training and certifying evaluators of competency to stand trial. Journal of Forensic Psychology Practice, *15*, 295-317. doi: 10.1080/15228932.2015.1046798
- Gowensmith, W. N.** (2015). The best possible outcome of the Holmes insanity trial. The Colorado Psychologist, 6-8.
- Gowensmith, W. N.**, Murrie, D. M., & Packer, I. K. (2015). *Report in response to the Trueblood v. State Washington's Department of Social and Health Services*. (Office of Attorney General, State of Washington).
- Gowensmith, W. N.**, Murrie, D. M., & Packer, I. K. (2014). *Forensic mental health consultant review final report*. (State of Washington's Department of Social and Health Services).
- Gowensmith, W. N.**, Bryant, A. & Vitacco, M. (2014). Decision-making in post-acquittal hospital release: How do forensic evaluators make their decisions? Behavioral Sciences & the Law, *32*, 596-607. doi: 10.1002/bsl.2135
- McCallum, K. E., MacLean, N., & **Gowensmith, W. N.** (2014). The impact of defendant ethnicity on the psycho-legal opinion of forensic evaluators. International Journal of Law and Psychiatry, *39*, 6-12. Doi: 10.1016/j.ijlp.2015.01.015
- Fuger, K.D., Acklin, M. W., Nguyen, A. H., Ignacio, L. A., & **Gowensmith, W. N.** (2014). Quality of criminal responsibility reports submitted to the Hawaii judiciary. International Journal of Law and Psychiatry, *37*, 272-280. doi: 10.1016/j.ijlp.2013.11.020
- Gowensmith, W. N.**, Murrie, D. M., & Boccaccini, M. T. (2013). Forensic Mental Health Evaluations: Reliability, Validity, Quality, and Other Minor Details. The Jury Expert, *25*, 1-8.
- Gowensmith, W. N.**, Murrie, D. M., & Boccaccini, M. T. (2012). How reliable are forensic evaluations of legal sanity? Law and Human Behavior, *37*, 98-106. doi: 10.1037/lhb0000001
- Gowensmith, W. N.** (2012, winter). Are competency evaluators competent? American Psychology-Law Society Newsletter, 16-19.
- Nguyen, A. H., Acklin, M. W., Fuger, K., **Gowensmith, W. N.**, Ignacio, L. A., & Low, S. (2011). Freedom in paradise: Quality of conditional release reports submitted to the Hawaii judiciary. International Journal of Psychiatry and Law, *34*, 341-348. doi: 10.1016/j.ijlp.2011.08.006.

**Gowensmith, W. N.,** Murrie, D. M., & Boccaccini, M. T. (2011). Field reliability of competency to stand trial evaluations: How often do evaluators agree, and what do judges decide when evaluators disagree? Law and Human Behavior, *36*, 130-139. doi: 10.1037/h0093958.

Deffenbacher, J.L., Dahlen, E.R., Lynch, R.S., Morris, C.D., & **Gowensmith, W. N.** (2000). An application of Beck's cognitive therapy to general anger reduction. Cognitive Therapy and Research, *24*, 689-697.

**Gowensmith, W. N.,** & Bloom, L. J. (1997). The effects of heavy metal music on anger and arousal. The Journal of Music Therapy, *34*, 33-45.

## **OTHER PROFESSIONAL ACTIVITIES**

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**Mental Health, Law, and Policy Institute, Simon Fraser University:** Member

**University of Alabama Graduate Faculty:** Affiliate Member, 2021-2024

**Associate of Behavioral Medicine, University of Kwa-Zulu Natal:** Member 2017 – present

**Health Professions' Council of South Africa (Professional Board for Psychology) Task Team on Forensic Psychology Registration and Training:** External consultant, 2016 – present

**Invited Advisor, US Substance Abuse and Mental Health Service Administration's Taskforce on Forensic Mental Health:** 2017 – present

**Board Member, Behavioral Sciences & the Law Journal:** 2017 – present

**18<sup>th</sup> Judicial District's Clinical Advisory Committee:** 2016 – present

**Consultation with the State of Washington's Department of Health and Human Services and the State of Washington's Office of the Attorney General:** 2014 - present

***Trueblood v Washington State Department of Health and Human Services:*** Defendant expert witness, 2015

**American Psychology-Law Society:** National conference advisory committee member 2014-2017

**Committee to increase reimbursement rates for forensic mental health evaluators in Colorado:**  
Committee member, 2013-2015

**State of Colorado Jail-based Competency Restoration Program Development:** Member 2012

**American Psychology-Law Society:** National conference dissertation review committee member  
2010-2013

**National Association of State Mental Health Program Directors, Forensic Div.:** Vice President 2010-2013;  
State of Hawaii Designee 2006-2011; Representative 2011-2015

**Mental Health Transformation State Incentive Grant:** Vice Chair, Criminal Justice Taskgroup  
2006-2011

**Hawaii Mental Health and the Law Taskforce:** Standing member  
2007-2011

**Senate Committee Resolution #117 Legislative Taskforce:** Forensic mental health designee  
2007-2008



## **GRANTS**

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### **Lead author:**

**Faculty Research Fund (2017-19, \$2910).** *University of Denver:* Conduct research examining base rate cognitive and psychological profiles for individuals sentenced as juveniles to life without parole.

**Internationalization Grant (2016-18, \$30,000 / 3 years).** *University of Denver:* Develop a working research relationship with the University of Kwa-Zulu Natal in the fields of forensic mental health and competency to stand trial.

**Public Good Fund (January 2017, \$8464 / 1 year).** *University of Denver:* Photovoice project with the College Gateway Program at Red Rocks Community College, a community re-entry program designed for recently released ex-offenders in Colorado.

**Public Good Fund (January 2014, \$15,000 / 1 year).** *University of Denver:* marketing plan for the College Gateway Program at Red Rocks Community College, a community re-entry program designed for recently released ex-offenders in Colorado.

**Internationalization Grant (November 2014, \$5000 / 1 year).** *University of Denver:* Develop a working research relationship with Simon Fraser University and University of British Columbia in the fields of violence risk assessment and reduction.

**Incorporation of Trauma and Violence Against Women Assessment into a Community Mental Health Clinic (January 2013, \$2500 / 9 months).** *Federal Office on Women's Health:* updated and trained university-based community clinic on current strategies for assessing histories of trauma and victimization in potential female clients.

**Public Good Fund (September 2011, \$9000 / 1 year).** *University of Denver:* conducted program evaluation of the College Gateway Program at Red Rocks Community College, a community re-entry program designed for recently released ex-offenders in Colorado.

**Sequential Intercept Model Research (October 2010, \$65,000 / 2 years).** *Federal State Block Grant (SAMHSA):* hires research assistants to develop and implement a research program focused on program evaluation of inter-agency systems of care among mental health and criminal justice agencies throughout the state of Hawaii.

**East Hawaii Drug Court Evaluation (October 2010, \$36,500 / 1 year).** *Federal State Block Grant (SAMHSA):* hires a research assistant to perform program evaluation on innovative court program, in partnership with the judiciary.

**Maui County Police Training and Forensic Services Implementation (October 2010, \$90,000 / 2 years).** *Federal State Block Grant (SAMHSA):* Trains local police officers in Crisis Intervention Training, and provides funding for transition services for mentally ill offenders leaving correctional facilities or local hospitals. Developed in partnership with county police department, mental health providers, and the judiciary.

**Pre-doctoral Forensic Internship (August 2009, \$270,000 / 2 years).** *Justice Assistance Grant through the U.S. Department of the Attorney General:* funds the implementation of a post-doctoral psychology internship as well as implementation of key forensic and criminogenic programs and trainings.

**Pre-booking Jail Diversion (June 2009, \$300,000 / 2 years).** *Justice Assistance Grant through the U.S. Department of the Attorney General:* hires, trains and places multiple psychiatric nurses in police pre-adjudication cellblock.

**Translational and Outcome Research on Forensic Programs and Services (September 2009, \$20,000 / 1 year).** *Federal State Block Grant (SAMHSA):* funds implementation of implementation science research to assess viability and outcomes associated with new forensic programs implemented across multiple agencies.

**Forensic Licensed Crisis Residential Shelter (September 2009, \$40,000 / 1 year).** *Federal State Block Grant (SAMHSA):* funds planning of a 4-bed unit to be created to provide service and shelter to forensic consumers in crisis, either pre-trial or post-acquittal.

**Forensic Examiners and Forensic Professionals Training (September 2008, 2009, 2010, \$135,000 / 4 years).** *Federal State Block Grant (SAMHSA):* funds forensic trainings and collection of forensic resource materials to ensure workforce development.

**Contributing or co-author:**

**Evaluation of MHCD's Colorado Second Chance Housing and Reentry Program (C-SHARP) (September 2015, \$44,342 / 1 year).** The Mental Health Center of Denver: Provided technical assistance in the preparation of the grant proposal. The grant proposal was successful.

**Traumatic Brain Injury Screening and Training Project (June 2013, \$1,500,000 / 3 years).** Office of Behavioral Health, HRSA: Partner on grant designed to screen and treat inmates with traumatic brain injury throughout seven sites in Colorado. Specific responsibility for training correctional staff, mental health staff, civil staff, and inmates about recognizing and coping with traumatic brain injury.

**Walton Family Foundation Bilingual Certificate Program (January 2014, \$450,000 / 3 years).** *University of Denver:* Partner on grant creating a bilingual mental health certificate program to include international exchange with Spanish-speaking countries and an on-line bilingual mental health certificate program.

**Front End Users Grant (January 2014, \$18,000 / 1 year).** *City and County of Denver:* Jail-based and community-based assessment of criminogenic and clinical needs of frequent users of mental health and emergency services in Denver, CO.

## **PRESENTATIONS**

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### **Peer-reviewed presentations:**

- Stewart, H. J., Kois, L. E., White, C., McDowell, L., Cox, J., & **Gowensmith, W. N.** (2023, March 16–18). Understanding competency restoration practice and process through meta-analysis: What is it, who benefits, and how long does it take? In L. Kois (Chair), *New meta-analytic research to inform competency to proceed "crisis" practice and policy* [Symposium]. American Psychology-Law Society Annual Conference, Philadelphia, PA, United States.
- Francis, J. M., Varela, J. G., Boccaccini, M. T., **Gowensmith, W. N.**, & Crosby, J. W. (2023, March). Predictors of unfavorable outcomes in competency restoration [paper presentation]. Annual Meeting of the American Psychology-Law Society, Philadelphia, PA, United States.
- Murrie, D.C., & **Gowensmith, W. N.** (2022, March). Strategies to address the competency crisis: The Colorado example. In L.E. Kois (Chair), *Fresh Approaches to Understanding and Addressing the United States' (In)Competency "Crisis"* [Symposium]. Annual Meeting of the American Psychology-Law Society, Denver, CO, United States.
- Richelson, S., Pogue, A., **Gowensmith, W. N.**, & Murrie, D. C. (September, 2021). Competency services in Colorado: Unraveling the process. Symposium at the Colorado Virtual Judicial Conference, online format.
- Callahan, L., Pinals, D., **Gowensmith, W. N.**, Compton, L. (May, 2021). Exploring models of community-based competency restoration. Symposium at National Council for Behavioral Health conference, online format.
- Kanani, H., McCarver, K., Unger, L., & **Gowensmith, W. N.** (March, 2021). Participant outcomes and experiences in a wellness court program during COVID-19. Poster presentation at the 2021 annual meeting of the American Psychology-Law Society, online format.
- Fonzi, L., Lodovic, J., Robles, K., Tuder, S., **Gowensmith, W. N.**, Batastini, A. B., & Vitacco, M. J. (March, 2021). Perceived credibility of social media as a collateral source in forensic evaluations. Poster presentation at the 2021 annual meeting of the American Psychology-Law Society, online format.
- Darby, C., Griffith, E., Martinez, R., Weinstock, R., & **Gowensmith, W. N.** (October, 2020). Can we overcome our biases to reach an objective opinion? Symposium at the 2021 annual meeting of the American Academy of Psychiatry and Law, online format.
- Gowensmith, W. N.** & McCallum, K. E. (March, 2020). Monitoring bias with a handheld mobile app. Paper presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.
- Gowensmith, W. N.** & Murrie, D. C. (March, 2020). Promising approaches to competency restoration: CO's placement and triage system. Paper presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.
- Gowensmith, W. N.** (March, 2019). Case Rate: Using a new app to track forensic evaluation outcomes. Paper

presentation at the 2019 annual meeting of the American Psychology-Law Society, Portland, OR.

Brooks-Holiday, S., Appel, O., Giallella, C., Longtin, J., & **Gowensmith, W. N.** (March, 2020). Shaping diversion through law, policy, and data. Symposium at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

Fahlbusch, K., **Gowensmith, W. N.** & Gowensmith, D. M. (March, 2020). Outcomes from a university-based outpatient competency restoration program. Paper presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

Gardner, B., Tomascak, D., Murrie, D. C., & **Gowensmith, W. N.** (March, 2020). Disproportionate impact of misdemeanants on forensic mental health services. Symposium at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

McDermott, B., Warburton, K., Hughes, G. & **Gowensmith, W. N.** (March, 2020). The IST crisis: Are jail-based restoration programs the solution? The California experience. Symposium at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

Tassin, C., Janicke, K., & **Gowensmith, W. N.** (March, 2020). Crisis Intervention Team (CIT) training and its effects on law enforcement officers. Data blitz presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

Azama, C., Kanani, H, Roberts, H. & **Gowensmith, W. N.** (March, 2020). Predicting outcomes of a wellness court program. Paper presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

McCallum, K. E., **Gowensmith, W. N.**, & Azama, C. (March, 2020). Monitoring potential bias w/ a handheld mobile app. Paper presentation at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

Wolbranksy, M., **Gowensmith, W. N.**, Kemp, K., Torres, A, & Meissner, A. (March, 2020). Influencing policy: Varied lives of policy work. Symposium at the 2020 annual meeting of the American Psychology-Law Society, New Orleans, LA.

**Gowensmith, W. N.**, McCallum, K. E., Jennings, M., & Johnson, C. (March, 2019). Monitoring potential bias within a forensic evaluation agency. Paper presentation at the 2019 annual meeting of the American Psychology-Law Society, Portland, OR.

Davies, E., Hauglid, L., **Gowensmith, W. N.**, & Meyer, L. (March, 2019). Criminogenic risk factors in the Denver County Wellness Court Population. Paper presentation at the 2019 annual meeting of the American Psychology-Law Society, Portland, OR.

**Gowensmith, W. N.**, Alexander, A. A., Harvey, C., and Manguno-Mire, G. (March, 2019). Outpatient competency restoration: Development and outcomes from three major programs. Symposium at the 2019 annual meeting of the American Psychology-Law Society, Portland, OR.

- Bryson, C. N., Boccaccini, M. T., **Gowensmith, W. N.**, Reinhard, E., & Holdren, S. (March, 2019). Does time matter in competency to stand trial evaluations? Paper presentation at the 2019 annual meeting of the American Psychology-Law Society, Portland, OR.
- Gowensmith, W. N.**, Candilis, P. J., Johnson, N., & Morel, J. (October, 2018). Outpatient competency restoration programs: A national overview. Paper presentation at the annual meeting of the American Academy of Psychiatry and Law, Austin, TX.
- Potts, H. M., Smith, K. P., Meyer, L. J., **Gowensmith, W. N.**, Alexander, A. A. (2018, October). Evaluating treatment needs for non-offending men with pedophilic sexual attractions. Data blitz presentation at the Association for the Treatment of Sexual Abusers annual conference, Kansas City, MO.
- Gowensmith, W. N.**, Candilis, P. J., Morel, J. Kruh, I. P., Alkema, A., Swensen, K., & Graf, A. (March, 2018). Outpatient competency restoration programs: Updates on the hows, wheres, and whos. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Gowensmith, W. N.**, Smith, K. P., & Yeager, K. N. (March, 2018). Monitoring one's personal bias in forensic evaluation: A how-to guide. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Gowensmith, D. M., **Gowensmith, W. N.**, Osentoski, K. D., Blackmond, L. N., & Nowrouzi, E. M. (March, 2018). Returning citizens through a different lens. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Bryson, C. N., Boccaccini, M. T., **Gowensmith, W. N.**, Laxton, K. L., Mattos, L., Reinhard, E., Holdren, S., & Lawrence, J. (March, 2018). Time matters in competency to stand trial evaluations. Poster presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Patin, H. R., Pait, O. R., **Gowensmith, W. N.**, & Meyer, L. J. (March, 2018). Jurors' perceptions of juvenile sex offenders. Poster presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Winn, C. B., **Gowensmith, W. N.**, Mandeville, S. R., Ray, K. F., Jay, A. P., & Meyer, L. J. (March, 2018). Validation of risk-need-responsivity assessment measures. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Potts, H. M., **Gowensmith, W. N.**, Martinez, R., Gray, B. T., Meyer, L. J., Patin, H. R., & Schultz, P. D. (March, 2018). Mandated video recording of legal sanity evaluations. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Druhn, N., **Gowensmith, W. N.**, Patin, H. R., & Murrie, D. M. (March, 2018). A survey of forensic psychology postdoctoral programs. Paper presentation at the annual meeting of the American Psychology-Law Society, Memphis, TN.
- Meyer, L. J., **Gowensmith, W. N.**, Montalvo, J., Patin, H. R., Pegher, K., Yeager, K. N., & Tedeschi, P. (March, 2018). Development of the Animal Abuse Risk Assessment Tool. Poster presentation at the



annual meeting of the American Psychology-Law Society, Memphis, TN.

**Gowensmith, W. N.** (2017, July). Decision-making in post-insanity acquittal conditional release evaluations. Paper presentation at the International Association of Law and Mental Health, Prague, Czech Republic.

Faulbusch, K., **Gowensmith, W.N.**, & Meyer, L. (2017, March). Probation compliance and gender. Poster presented at the 2017 annual meeting of the American Psychology – Law Society, Seattle, WA.

**Gowensmith, W. N.**, Lichten, A., & McNichols, B. J. (2016). Forensic evaluation research: Is it actually helpful to clinical practice? Presentation at the 2016 Hawaii Psychological Association Annual Conference, Honolulu, HI.

**Gowensmith, W. N.** & Henderson-Metzger, L. (2016). Toward Cultural Competence in Forensic Clinical Training: A Dialogue. Presentation at the 2016 Hawaii Psychological Association Annual Conference, Honolulu, HI.

**Gowensmith, W. N.** (2016, August). Translating knowledge into action and action into outcomes – Models of service-learning training. Symposium at the 123<sup>rd</sup> annual meeting of the American Psychological Association, Denver, CO.

Davis, T.M., Smith-Acuña, S., Nadkarni, L., **Gowensmith, W. N.**, Sturm, S., Anderson, L., Ross, K., & Walton, S. (August 2016). Formation of the DU graduate Sturm specialty in military psychology. Symposium at the 123<sup>rd</sup> annual meeting of the American Psychological Association, Denver, CO.

**Gowensmith, W. N.** (2016, May). Mental illness and the courts: Myths, misconceptions, and...hope? Paper presented at the Colorado Collaborative Justice Conference, Denver, CO.

Smith, B. N., Meyer, L., **Gowensmith, W.N.**, & Nadkarni, L. (2016, March). Program Evaluation: Addiction Severity Index (ASI). Paper presented at the 2016 annual meeting of the American Psychology – Law Society, Atlanta, GA.

Eddy, T., Gorgens, K., Meyer, L., Dettmer, J., & **Gowensmith, W.N.** (2016, March). Traumatic Brain Injury and Traumatic History. Paper presented at the 2016 annual meeting of the American Psychology – Law Society, Atlanta, GA.

**Gowensmith, W. N.**, Metroz, H., & Bratcher, J. (2016, March). The impact of timing on competency to stand trial evaluations. Paper presented at the 2016 annual meeting of the American Psychology – Law Society, Atlanta, GA.

**Gowensmith, W. N.**, Bratcher, J., & Metroz, H. (2016, January). The impact of timing on competency to stand trial evaluations. Paper presentation at the 2016 University of Denver Research Summit, Denver, CO.

Eddy, T., Gorgens, K., Meyer, L., Dettmer, J., & **Gowensmith, W.N.** (2016, January). Traumatic Brain Injury and Traumatic History. Paper presentation at the 2016 University of Denver Research Summit, Denver, CO.

- Smith, B. N., Meyer, L., **Gowensmith, W.N.**, & Nadkarni, L. (2016, January). Program Evaluation: Addiction Severity Index (ASI). Paper presentation at the the 2016 University of Denver Research Summit, Denver, CO.
- Nadkarni, L., Meyer, L. A., **Gowensmith, W. N.**, & Gorgens, K. (2015, August). The psychological impact of animals in the lives of three diverse, global populations. Symposium at the 123<sup>nd</sup> annual meeting of the American Psychological Association, Toronto, Canada.
- Gowensmith, W. N.**, Meyer, L., & Robinson, K. (2015, August). The applicability of traditional risk assessment measures to a chronically homeless population. Paper presentation at the 123<sup>nd</sup> annual meeting of the American Psychological Association, Toronto, Canada.
- Gowensmith, W. N.**, Laub, C., & Nadkarni, L. (2015, May). Denver's Recovery Court and the PHASE Programs. Paper presentation for the 2015 meeting of the Colorado Collaborative Justice Conference, Denver, CO.
- Gowensmith, W. N.**, Lachman, C., & Coles, J. (2015, May). The College Gateway Program: A successful application of the RNR model in a community re-entry program. Panel presentation for the 2015 meeting of the Colorado Collaborative Justice Conference, Denver, CO.
- Gowensmith, W. N.**, Sledd, M, & Sessarego, S. (2015, March). The impact of stringent certification standards on forensic evaluator reliability: Further analysis. Paper presentation for the 2015 annual meeting of the American Psychology – Law Society, San Diego, CA.
- Hanson, L., & **Gowensmith, W. N.** (2015, March). The effects of gender, sexual orientation, and diagnostic categories on jurors in sex offense cases. Poster presentation for the 2015 annual meeting of the American Psychology – Law Society, San Diego, CA.
- Galen, K., Weitenheller, D., & **Gowensmith, W. N.** (2015, March). Jail-based competency restoration: A successful case study. Paper presentation for the 2015 annual meeting of the American Psychology – Law Society, San Diego, CA.
- Gowensmith, W. N.**, Sledd, M, & Sessarego, S. (2014, August). The impact of stringent certification standards on forensic evaluator reliability. Paper presentation at the 122<sup>nd</sup> annual meeting of the American Psychological Association, Washington, DC.
- Gowensmith, W. N.** & Tassin, A. (2014, March). Courts, cops, clinicians and community corrections: Differences in understanding violence risk in the mentally ill. Paper presentation at the annual meeting of the American Psychology-Law Society, New Orleans, LA.
- Therson, D., Speelman, D. & **Gowensmith, W. N.** (2014, March). Adult outpatient competency restoration: Results from a nationwide survey. Paper presentation at the annual meeting of the American Psychology-Law Society, New Orleans, LA.

- Bryant, A., **Gowensmith, W. N.**, & Vitacco, M. J. (2014, March). Decision-making in post-acquittal hospital release: How do forensic evaluators make their decisions? Paper presentation at the annual meeting of the American Psychology-Law Society, New Orleans, LA.
- Karas, A., **Gowensmith, W. N.**, & Pinals, D. A. (2014, March). States' standards for training and certifying evaluators of competency to stand trial. Paper presentation at the annual meeting of the American Psychology-Law Society, New Orleans, LA.
- Jul, E., **Gowensmith, W. N.**, Ignacio, L.A., & Tanji, J. (2014). Perceptions of Violence Risk Factors Amongst Judges Working with Criminal Offenders with Mental Illness. Unpublished manuscript, Argosy University, Honolulu, HI.
- Gowensmith, W. N.** & McNichols, B. J. (2013, August). Decisions, decisions: insanity acquittees, hospital discharge, and the forensic evaluator. Paper presentation at the 121<sup>st</sup> annual meeting of the American Psychological Association, Honolulu, HI.
- Gowensmith, W. N.**, Skeem, J. L., & McNichols, B. J. (2013, March). Specialty community supervision practices for insanity acquittees: How well do they work? Paper presentation at the annual meeting of the American Psychology-Law Society, Portland, OR.
- Nassab, N., McCallum, K. E., & **Gowensmith, W. N.** (2013, March). Reliability of diagnoses in forensic evaluation. Paper presentation at the annual meeting of the American Psychology-Law Society, Portland, OR.
- Purta, M., McCallum, K. E., Nassab, N., & **Gowensmith, W. N.** (2013, March). Consistency of violence risk prediction across professional disciplines. Paper presentation at the annual meeting of the American Psychology-Law Society, Portland, OR.
- Gowensmith, W. N.**, Musgrove, L., Muller, K., & Henry, K. (2013, March). The College Gateway Program: Case study of a successful offender re-entry program. Poster presentation at the annual meeting of the American Psychology-Law Society, Portland, OR.
- Nadkarni, L., Gorgens, K., Henderson-Metzger, L. & **Gowensmith, W. N.** (2012, August). Does this ivory tower have a changing table? Managing multiple roles and identities in a professional graduate program. Roundtable presentation at the 120<sup>th</sup> meeting of the American Psychological Association, Orlando, FL.
- Gowensmith, W. N.**, McCallum, K. & Nassab, N. (2012, August). Does a defendant's ethnicity impact the psycholegal opinion of a forensic expert witness? Paper presentation at the 120<sup>th</sup> meeting of the American Psychological Association, Orlando, FL.
- Gowensmith, W. N.**, McNichols, B. J., Bauer-Smith, B., & Dolder, S. (2012, June). New dawn or new nightmare? The impact of new mental health legislation in Hawaii. Roundtable presentation at the meeting of the Law and Society Association, Honolulu, HI.
- Kemp, K., **Gowensmith, W. N.**, Boccaccini, M. T., & Murrie, D. C. (2012, March). Predictors of competency to stand trial opinions in 1,318 evaluations of Hawaiian defendants. In L. Kois (Chair), Multicultural



considerations in competence to stand trial evaluations. Symposium accepted for presentation at the meeting of the American Psychology Law Society, San Juan, PR.

**Gowensmith, W. N.,** Murrie, D. & Boccaccini, M. (2011, March). Evaluator agreement in assessing violence risk and need for hospitalization. Paper presentation at the American Psychology-Law Society Conference (Miami, FL).

**Gowensmith, W. N. &** Frost, L. (2011, March). Outpatient competency restoration: Promising results from a new frontier. Paper presentation at the American Psychology-Law Society Conference (Miami, FL).

McNichols, B., **Gowensmith, W. N. &** Jul, E. (2011, March). Forensic evaluators and conditional release evaluations: Is evaluator agreement of CR readiness related to longer community tenure? Paper presentation at the American Psychology-Law Society Conference (Miami, FL).

McNichols, B., Jul, E., & **Gowensmith, W. N.** (2011, March). Conditional release in the state of Hawaii: A qualitative and quantitative analysis. Poster presentation at the American Psychology-Law Society Conference (Miami, FL).

McNichols, B., Jul, E., & **Gowensmith, W. N.** (2010, October). Is conditional release working in the state of Hawaii? Rehospitalization and recidivism rates for insanity acquittees. Poster presentation at the Hawaii Psychological Association Conference (Honolulu, HI).

**Gowensmith, W. N.,** Murrie, D. & Boccaccini, M. (2010, August). How reliable are forensic evaluations? Evaluator agreement in sanity evaluations. Paper presentation at the American Psychological Association Conference (San Diego, CA).

**Gowensmith, W. N.,** Murrie, D. & Boccaccini, M. (2010, March). How reliable are forensic evaluations? Evaluator agreement in competency to stand trial evaluations. Paper presentation at the American Psychology-Law Society Conference (Vancouver, Canada).

**Gowensmith, W. N. &** Frost, L. (2010, March). Outpatient competency restoration: State of the practice for juvenile and adult restoration. Paper presentation at the American Psychology-Law Society Conference (Vancouver, Canada).

Miller, R., **Gowensmith, W. N.,** Cunningham, S., & Bailey-Smith, K. (2009, October). Community-Based Treatment to Restore Competency to Stand Trial. Symposium conducted at National Association of State Mental Health Directors Forensic Division National Conference (Virginia Beach, VA).

Morris, J., Pinals, D., Griffin, P., & **Gowensmith, W. N.** (2009, October). National Jail Diversion Options. Symposium conducted at National Association of State Mental Health Directors Forensic Division National Conference (Virginia Beach, VA).

**Gowensmith, W. N.** (2009, April). Evidence-Based Assessment of Dangerousness. Paper presented at Best Practices in Forensic Mental Health: Responsibility and Recovery in the Legal System (Honolulu, HI).

- Polokoff, R., Steffen, J., **Gowensmith, W. N.** (2009, April). Analysis of the Conditionally Released Population in Hawaii. Poster at the Forensic Mental Health: Responsibility and Recovery in the Legal System Conference, (Honolulu, HI).
- Ehrhorn, E., & **Gowensmith, W. N.** (2009, April). Outcomes of the CREST (Conditional Release Exit and Support Transition) Program. Poster at the Forensic Mental Health: Responsibility and Recovery in the Legal System Conference, (Honolulu, HI).
- Gundaya, D., Steffen, J., **Gowensmith, W. N.**, & Crisanti, A. (2009, April). Forensic Involvement and Victimization Among AMHD Consumers. Poster at the Forensic Mental Health: Responsibility and Recovery in the Legal System Conference, (Honolulu, HI).
- Gowensmith, W. N.** (2008, October). Current Practices in Assessment of Competency. Symposium (Chair), Hawaii Forensic Examiner Training (Honolulu, HI with statewide video-conferencing).
- Gowensmith, W. N.** (2008, March). The Conditional Release Program in Hawaii: Successes and Challenges. Paper presented at the National GAINS Center Conference (Washington, D.C.).
- Gowensmith, W. N.** & Pedro, D. (2008, March). Specialized Forensic Programs in Hawaii: Hale Imua and Community-Based Competency Restoration. Symposium conducted at National GAINS Center Conference (Washington, D.C.).
- Gowensmith, W. N.** (2008, February). Overview of Forensic Mental Health. Invited presentation for International Public Health course offered by the University of Hawaii at Manoa (videoconferencing to Hawaii and several Pacific Island nations).
- Gowensmith, W. N.** (2007, September). The Big Kahuna: The Conditional Release Program in Hawaii. Symposium conducted at National Association of State Mental Health Program Directors Forensic Division National Conference (San Antonio, Texas).
- Gowensmith, W. N.** (2007, September). Effectiveness and Future Directions for Forensic Mental Health. Symposium conducted at State of Hawaii Forensic Examiner Training Conference (Honolulu, HI).
- Gowensmith, W. N.** (2007, January – April). Reducing Risk for Violence in Mentally Ill Offenders. Trainings and consultations to judiciary staff, mental health providers, housing providers, correctional staff, and police. (Statewide, Hawaii).
- Gowensmith, W. N.** (2007, January). Forensic Services in Hawaii. Presentation to Senate Committee 117 Task Force of the Hawaii State Legislature (Honolulu, HI).
- Gowensmith, W. N.** (2006, December). The Intersection of Adult Mental Health and the Criminal Justice System on Oahu. Presentation to Senate Committee 117 Task Force of the Hawaii State Legislature (Honolulu, HI).
- Gowensmith, W. N.** (2006, April). The Conditional Release Process. Symposium conducted at Hawaii Forensic Examiner Training Conference (Honolulu, HI).

**Gowensmith, W. N.** (2001, 2002, 2003, Summers). Psychology, Racism, and Peace-building. Trainings and consultations for South Africa Community Fund (Cape Town, South Africa).

Deffenbacher, J., Dahlen, E., Lynch, R., Morris, C. & **Gowensmith, W. N.** (1998, August). Application of Beck's cognitive therapy to general anger reduction. Paper presented at the American Psychological Association conference (San Francisco, CA).

### **Invited Presentations:**

**Gowensmith, W. N.** (October 2021). Evaluation of fitness to stand trial. Invited presentation to the Psychological South African Association annual conference (online).

**Gowensmith, W. N.,** Murrie, D. M., Richelson, S., & Pogue, A. (September, 2021). Competency services in Colorado: Unraveling the process. Invited presentation to the Colorado Judicial Conference (online).

**Gowensmith, W. N.** (2021, March). Mirror, mirror on the wall: Who's the least biased of them all? Invited presentation for the University of Massachusetts Medical School (virtual).

**Gowensmith, W. N.** (2017, September). Challenges and solutions in forensic psychology. Invited presentation at the Pan-African Psychology Union Congress (Durban, South Africa).

**Gowensmith, W. N.** (2016, September). Bias in forensic evaluation. Invited presentation at the Annual Forensic Examiners Training Conference (Denver, CO).

**Gowensmith, W. N.,** Murrie, D. M., & Gallagher, J. A. (2016, August). Threats to reliability in forensic evaluation. Invited symposium at the 123<sup>rd</sup> annual meeting of the American Psychological Association, Denver, CO.

**Gowensmith, W. N.** (2016, July). Comparisons and contrasts in the forensic mental health systems between the USA and the Republic of South Africa. Invited presentation for the University of Kwa-Zulu Natal's Medical School (Durban, South Africa).

**Gowensmith, W. N.** (2016, July). Forensic evaluation: Reliability, validity, quality, and other minor details. Invited presentation for Ft. Napier State Hospital and the Kwa-Zulu Natal Department of Health (Pietermaritzburg, South Africa).

**Gowensmith, W. N.** (2016, March). Suicide and violence risk prediction. Invited keynote presentation for the Colorado Association of Social Workers (Denver, CO).

**Gowensmith, W. N.** (2015, September). Mental illness and the courts: Myths, misconceptions, and...hope? Invited presentation for the University of Denver's Pioneer Symposium Series (Denver, CO).

- Gowensmith, W. N.**, Sledd, M., Leland, C., & Lachman, C. (2015, January). The College Gateway Program: Matching ex-offenders with their purpose and passion. Invited presentation for the University of Denver's Chancellor's Research Summit (Denver, CO).
- Lachman, C. & **Gowensmith, W. N.** (2014, February). The College Gateway Program: Matching ex-offenders with their purpose and passion. Invited keynote presentation for the Colorado Career Development Association (Aurora, CO).
- Gowensmith, W. N.** (2013, September). Outpatient competency restoration programs: A national survey. Invited presentation at the Annual Forensic Examiners Training Conference (Denver, CO).
- Gowensmith, W. N.** (2013, June). Program evaluation of the College Gateway Program: Success in the face of defeat. Invited presentation for Campus Compact of the Mountain West (Breckenridge, CO).
- Gowensmith, W. N.** (2013, January). Program evaluation of the College Gateway Program: Success in the face of defeat. Invited presentation for Red Rocks Community College administration (Denver, CO).
- Gowensmith, W. N.** (2012, September). Forensic evaluation: Reliability, validity, quality, and other minor details. Invited presentation at the Annual Forensic Examiners Training Conference (Denver, CO).
- Gowensmith, W. N.** (2012, June). Forensic evaluation: Reliability, validity, quality, and other minor details. Invited presentation at the Annual Forensic Examiners Training Conference (Honolulu, HI).
- Gowensmith, W. N.** (2012, June). Assessment and management of violence risk. Invited presentation at the Annual Forensic Examiners Training Conference (Honolulu, HI).
- Gowensmith, W. N.** (2010, September). The roles of the police, providers and the public with the criminally mentally ill. Invited symposium for the Society of Police and Criminal Psychologists national conference (Honolulu, HI).
- Gowensmith, W. N.** (2010, September). The reliability of forensic evaluations in Hawaii. Invited presentation for the State of Hawaii Forensic Examiner Training (Honolulu, HI).
- Amano, R., Iboshi, C. & **Gowensmith, W. N.** (2009, September). Intersection of the Criminal Justice and Mental Health Systems: Collaboration or Competition? Symposium conducted at Professionals Redefining Options for the Mentally Ill through Skills and Education (PROMISE) Conference (Hilo, HI).
- Gowensmith, W. N.** (2008, March). Eco-worriers to Eco-warriors: The Role of Ecopsychology. Invited keynote at Laulima Conference on Environmental Awareness and Action (Honolulu, HI).
- Amano, R. & **Gowensmith, W. N.** (2007, September). Mental Health Courts and Calendars: Reducing Recidivism & Risk for Violence. Invited symposium conducted at Kauai Judicial Complex (Lihue, HI).
- Gowensmith, W. N.** (2005, May). Ecopsychology: It's not Easy Being Green. Invited symposium for Watada Lecturer of Excellence Series at University of Hawaii. (Honolulu, HI).



## **MEDIA APPEARANCES**

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5280 article

Wyoming article

Sherry, A. (2021, October 15). Jailed Coloradans waiting longer and longer for competency services, with sometimes tragic consequences. *Colorado Public Radio*. Retrieved from: <https://www.cpr.org/2021/10/15/jailed-coloradans-mental-illness-waiting-longer-competency-services-restoration-sometimes-tragic-consequences/>

Stringer, H. (2019, March). Improving mental health for inmates. *APA Monitor on Psychology*, p. 46. Retrieved from: <https://www.apa.org/monitor/2019/03/mental-health-inmates>.

Skene, L. (2018, February 24). What happens after not guilty by reason of insanity plea? Retrieved from: [http://www.theadvocate.com/baton\\_rouge/news/crime\\_police/article\\_44b13aaa-1279-11e8-b0c0-07b4cb18013e.html?utm\\_medium=social&utm\\_source=email&utm\\_campaign=user-share](http://www.theadvocate.com/baton_rouge/news/crime_police/article_44b13aaa-1279-11e8-b0c0-07b4cb18013e.html?utm_medium=social&utm_source=email&utm_campaign=user-share)

Wagner, L., Gowensmith, W. N., & Fitch, L. (2016, April). Issues in public forensic mental health. Into the Fold podcast, University of Texas Hogg Foundation for Mental Health.

Benzel, L. (2016, February 24). Mental competency report not completed for Planned Parenthood shooting suspect Robert Dear. Retrieved from: <http://gazette.com/mental-competency-report-not-completed-for-planned-parenthood-shooting-suspect-robert-dear/article/1570755>

Rodgers, J. (2015, December 23). Accused Colorado Springs Planned Parenthood shooter wants to represent himself: Judge orders mental health evaluation. Retrieved from: <http://gazette.com/accused-colorado-springs-planned-parenthood-shooter-wants-to-represent-himself-judge-orders-mental-health-evaluation/article/1566359>

Rodgers, J. (2015, December 22). Colorado Springs Planned Parenthood shooting suspect to return to court Wednesday Retrieved from: <http://gazette.com/colorado-springs-planned-parenthood-shooting-suspect-to-return-to-court-wednesday/article/1566329>

Glasgow, G. (2015, September 21). Pioneer Symposium: Professor to speak on mental illness and the courts. *University of Denver Magazine*.

Jenkins, A. (2015, July 29). Training, quality assurance lacking in Washington forensic mental health program. *Northwest News Network*. Retrieved from <http://nwnewsnetwork.org/post/training-quality-assurance-lacking-washington-forensic-mental-health-program>.

Hubbard, J. (2015, July 16). Live coverage and reaction to the Aurora Theater trial verdict. *Fox News Denver*.

Cruz, C. (Producer). (2015, June 1). *KITV Nightly News* [Television broadcast]. Honolulu, HI.

Wolzien, T. (Producer). (2015, May 14). *Talk Center America: Aurora Theater Shooting Trial* [Television broadcast]. Washington DC.

Ingold, J. & Steffen, J. (2015, April 27). Aurora theater shooting trial: Anticipated trial begins. *The Denver Post*, pp. A1, A13.

Steffen, J. (2014, May 31). Insanity, mental illness collide in Aurora theater shooting trial. *The Denver Post*. Retrieved from <http://www.denverpost.com>.

Steffen, J. (2014, April 20). Mental competency: Exam surge snarls system. *The Denver Post*, pp. A1, A15.

Ingold, J. (2013, June 7). James Holme's insanity plea faces historically long odds. *The Denver Post*. Retrieved from <http://www.denverpost.com>.

## **REFERENCES**

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Dr. Lavita Nadkarni  
Director, Masters of Forensic Psychology Program  
Graduate School of Professional Psychology  
University of Denver  
(303) 871-3736  
[lavita.nadkarni@du.edu](mailto:lavita.nadkarni@du.edu)

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Dean, Graduate School of Professional Psychology  
University of Denver  
(303) 871-3736  
[shelly.smith-acuna@du.edu](mailto:shelly.smith-acuna@du.edu)

Dr. Richard Martinez  
Director of Fellowship in Forensic Psychiatry  
University of Colorado Denver  
303-436-3394  
[richard.martinez@dhha.org](mailto:richard.martinez@dhha.org)

Dr. Daniel C. Murrie  
Associate Professor, University of Virginia  
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# JOHN PETRILA

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Santa Fe New Mexico 87507

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## Education

### *Degree / Date of Graduation*

1977: LL.M. (Master of Laws, mental health law): University of Virginia School of Law

1976: JD: University of Virginia School of Law

1973: BA: English and Political Science: St. Joseph's College (Indiana)

## Experience: Summary

I have spent nearly 5 decades as an attorney specializing in mental health and health law. During that time, I have represented people with mental illness in a state psychiatric hospital, served as a state director of forensic services, served as General Counsel to the New York Office of Mental Health, and built data driven mental health policy programs in Florida and Texas.

## Employment

2024-present: Meadows Mental Health Policy Institute **Senior Policy Advisor**  
(<https://mmhpi.org/>).

2016-2024: Meadows Mental Health Policy Institute, **Executive Vice President for Adult Policy**. Responsible for the development and oversight of policy initiatives that would improve access to care for individuals with mental illnesses in Texas; reduce the use of the criminal justice system; and integrate mental health and general health care. Also oversaw the Institute's data team, which relied on archival data sets from Texas and nationally on prevalence, service use, financing of care and evaluations of policy initiatives.

2012-2016: University of South Florida College of Public Health, **Chair and Professor, Department of Health Policy & Management**. Served as Department Chair, directed the department's MHA (Master's in Health Administration) and MPH (Master's in Public

Health)degree programs, and taught courses in health law and health policy in the College of Public Health and USF Medical School (<https://health.usf.edu/publichealth>).

1992-2012: University of South Florida Louis de la Parte Florida Mental Health Institute (FMHI), **Professor**, Chair from 1992-2004. Worked closely with county and state policymakers on issues impeding or increasing access to care for those with mental illness. Developed and oversaw the Florida Criminal Justice, Mental Health and Substance Abuse Technical Assistance Center, created by the Florida Legislature to provide technical assistance across Florida on justice-related issues.

1987-1992: New York Office of Mental Health, **General Counsel and Deputy Commissioner**. Oversaw the Department's counsel's office and served as a member of the Department's leadership team.

1981-1992: New York Office of Mental Health, **Deputy Counsel for Litigation**.

1979-1981: Missouri Department of Mental Health, **Director of Forensic Services**. Oversaw state programs for individuals committed as incompetent to stand trial or not guilty by reason of insanity.

1978-1979: Missouri Office of Attorney General, **Assistant Attorney General**. Represented the Missouri Department of Mental Health.

1976-1978: University of Virginia School of Law Institute of Psychiatry and Law, **Fellow in Law and Psychiatry**. Represented individuals committed to Western State Psychiatric Center, oversaw clinic in forensic psychiatry.

## **Awards and Offices**

Fulbright Scholar, United States Department of State (2010). Title: International perspectives on mental health law and the rights of individuals with mental disabilities; Developing a forensic psychology research program in the Netherlands. *Maastricht University* (January-June 2011). While at Maastricht I taught courses in mental health and law to the first international cohort of master's students at Maastricht University and helped the program develop a research agenda in justice and mental health.

President's Outstanding Faculty Award (2013). From the President of USF for contributions to the University through the Fulbright Scholar Award and related activities.

President's Award for Faculty Excellence (2003). From the President of the University of South Florida for excellence in scholarship and contributions to the mission of USF.

Saleem A. Shah Memorial Award (1999). From the Forensic Division of the National Association of State Mental Health Program Directors, for national contributions to forensic mental health.

President of the International Association of Forensic Mental Health Services, 2005-2007  
(<https://iafmhs.wildapricot.org>)

### **Publications**

I've published 3 books and more than 100 articles and chapters on mental health policy and law issues. The most notable work is **Psychological Evaluations for the Courts (Guilford Press, 1<sup>st</sup> edition in 1987, 5<sup>th</sup> edition in preparation)** which has become a standard work in the field of forensic psychology (<https://www.amazon.com/Psychological-Evaluations-Courts-Fourth-Professionals/dp/1462532667>)

## Curriculum Vitae

### **Darren L. Lish, MD, DFAPA**

University of Colorado School of Medicine  
Department of Psychiatry  
1890 N. Revere Ct.  
Aurora, CO 80045  
[darren.lish@cuanschutz.edu](mailto:darren.lish@cuanschutz.edu)  
[darren.lish@state.co.us](mailto:darren.lish@state.co.us)  
303-827-9803

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### **Licensure/Certification**

Licensure: Colorado #44260, 2006 – present  
California #C173536, 2021 – present  
Texas #S4339, 2019 – 2023  
Connecticut #041609, 2003 – 2006  
DEA 2003 - present

Certification: Diplomate, American Board of Psychiatry and Neurology  
General Psychiatry, 2008, 2018  
Forensic Psychiatry, 2009, 2018

### **Education/Training**

**2006 – 2007 University of Colorado Department of Psychiatry, Denver, CO**  
Fellowship in Forensic Psychiatry

**2001 - 2006 Yale University Department of Psychiatry, New Haven, CT**  
Residency in Psychiatry  
Chief Resident, Yale University Health Services  
Distinguished Laughlin Fellow - Outstanding Senior Graduate

**1996 - 2001 Yale University School of Medicine, New Haven, CT**  
Doctor of Medicine (M.D.)  
Honors Thesis – Dopamine Receptor Regulation  
Howard Hughes Research Fellowship 1999 - 2000

**1991 - 1995 University of California, Los Angeles (UCLA)**  
Bachelor of Science (B.S.), Psychobiology  
*Summa cum laude*  
*Phi Beta Kappa*

## Work Experience

### Current Position:

- 04/2021 - Associate Clinical Professor  
Deputy Director of Forensic Services  
Department of Psychiatry, University of Colorado School of Medicine  
Division of Community, Population, and Public Mental Health**
- Medical Director, Forensic Community Based Services (FCBS) for Not Guilty by Reason of Insanity (NGRI) acquittees in the community
  - Contract psychiatrist for Mesa County, Colorado Jail Based Behavioral Health Services (JBBS) Competency Enhancement Program (CEP)
  - Contract psychiatrist for Mendocino County, California Jail-Based Competency Treatment (JBCT) Program
  - Contract evaluator for court-ordered forensic psychiatric examinations (sanity, mental condition, competency, risk assessment, and release evaluations)
  - Liaison between University Department of Psychiatry and the Colorado Mental Health Hospitals at Pueblo and Ft. Logan and the Colorado Department of Corrections
  - Instructor and supervisor of forensic psychiatry fellows
  - Lecturer of forensic psychiatry topics to University of Colorado medical students, psychiatric residents, and forensic fellows

### Previous positions:

- 04/19 – 04/21 Behavioral Health Medical Director  
Anthem, Inc./Colorado Community Health Alliance (CCHA)**
- Oversaw the clinical management of two of Colorado’s Regional Accountable Entities (RAEs 6 and 7) that are responsible for building networks of providers, monitoring data, and coordinating the physical and behavioral health services to Colorado’s Medicaid population
  - Provided clinical supervision of all utilization management activities, including provision of medical necessity determinations for all levels of care and completion of appeals
  - Chairman of the Quality Management Committee for RAE Region 6
- 07/07 – 03/19 Senior Instructor  
Department of Psychiatry, University of Colorado School of Medicine**
- Correctional psychiatrist, Colorado Department of Corrections (DOC)
  - Chief of Psychiatry, Colorado DOC 2011 – 2019
    - o Management of correctional psychiatric services statewide
    - o Recruitment and supervision of psychiatric providers within the DOC
    - o Policy, procedure, and risk management of correctional psychiatric care
    - o Liaison with state and county mental health agencies

- Supervisor and lecturer to University of Colorado forensic psychiatry fellows
- Lecturer to Colorado Department of Corrections Training Academy
- Interim Chief Medical Officer, 2018-2019

**05/12 – 03/19 Private Practice, General and Forensic Psychiatry – Lakewood, CO**

- Psychotherapy and medication management of adult and adolescents with a variety of conditions, including mood disorders, psychotic disorders, PTSD, ADHD, substance use disorders, and adjustment issues
- Criminal competency to stand trial, sanity, and mental condition evaluations
- Civil malpractice, disability, personal injury, testamentary capacity, and fitness for duty evaluations

**04/08 -07/11 Colorado Assessment and Treatment Center – Denver, CO**

- Part-time outpatient psychiatric services
- Independence House modified therapeutic community program

**Volunteer Positions**

**2024 - American Psychiatric Association Assembly Representative for Colorado**

**2023 - Board Member, AllHealth Network**

- Serve on the board of directors of the community mental health center serving Colorado’s Arapahoe and Douglas counties

**2022 Johns Hopkins School of Nursing Preceptor Program**

- Precepted advanced practice psychiatric nurse practitioner at the Mendocino, CA County Jail

**2019 - Volunteer Consulting Psychiatrist, Resilience 1220**

- Provide psychiatric consultation for therapy staff of this nonprofit organization that provides free counseling for young people ages 12 – 20 in the mountain communities west of Denver
- Lecturer of mental health and psychiatric topics to local high schools and community groups

**Hospital Affiliations**

**07/2006 - Medical Staff, Colorado Mental Health Hospital in Pueblo (CMHHIP)**

- Consulting forensic psychiatrist
- Court-ordered competency, sanity, and mental condition evaluations

## **Professional Societies/Memberships**

### **Current:**

- 2007 - Colorado Psychiatric Society
- 2005 - American Academy of Psychiatry and the Law (AAPL)
- 1997 - American Psychiatric Association (APA distinguished fellow)

### **Previous:**

- 2013 - 2019 American College of Correctional Physicians
- 2004 - 2006 American Psychoanalytic Association

## **Committees**

- 2023 - Member of the Colorado Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems (BHDCJS) legislative task force
- 2022 - PsychSummit Advisory Panel Member
- 2022 - Executive Committee, Division of Community, Population, and Public Psychiatry, Department of Psychiatry, CU School of Medicine
- 2022 Colorado Office of Behavioral Health Criminal Justice Roadmap Committee; Law enforcement/Jails/Courts workgroup
- 2021 - American Academy of Psychiatry and the Law (AAPL) Recovery Committee
- 2017 – AAPL Suicidology Committee
- 2012 – 2017 AAPL Institutional and Correctional Psychiatry Committee
- 2007 - 2012 AAPL Forensic Training Committee

## **Presentations/Lectures**

- 2023 “Judicial Work at the Interface of Behavioral Health and Criminal Justice”  
Judges and Psychiatrists Leadership Initiative  
American Psychiatric Association, Washington, DC

- 2023 Mock Trial Exercise for Mental Health Professionals of the Colorado Mental Health Hospital in Fort Logan (CMHHIFL)
- 2023 University of Colorado Hospital Fellowship Panel  
University of Colorado Second-Year Psychiatric Resident presentation
- 2022 Global Health and Unserved Populations: Expert Panel of Physicians in the Legal System  
University of Colorado 4<sup>th</sup> Year Medical Student Course
- 2022 “The Recovery Challenge: Identity, Culture and the Life Worth Living”  
Panelist, 53<sup>rd</sup> annual meeting of the American Academy of Psychiatry and the Law (AAPL). New Orleans, LA
- 2022 “Not Guilty by Reason of Insanity (NGRI) Acquittes: Finding the Balance Between Patient Liberty and Public Safety”  
University of Colorado Department of Psychiatry Grand Rounds Lecture
- 2022 “Forensic Psychiatry”  
Forensic training lecture to staff of Colorado Mental Health Institute at Ft. Logan
- 2021 “Angst”  
Panelist for community presentation of the movie, Angst, sponsored by Resilience 1220, a local nonprofit mental health organization. Evergreen, CO
- 2021 - present "NGRI Acquittes, Forensic Community Based Services, and Release from Supervision"  
University of Colorado Forensic Psychiatry Fellowship Seminar (annual)
- 2021 “Adolescent Marijuana Use”  
Lecture to community of educators, parents, students, and mental health staff through Resilience 1220, a local nonprofit mental health organization. Evergreen, CO
- 2020 “Mental Health and Substance Use Disorders – An Update”  
Lecture to staff of Resilience 1220, a local nonprofit mental health organization. Evergreen, CO
- 2019 “Sleep and Mental Health”  
Lecture for Evergreen High School mental health workshop. Evergreen, CO
- 2018 “True or False: Kids Will be Kids? Substance Use to Abuse”



- Lecture for Evergreen High School Cougar Family University workshop.  
Evergreen, CO.
- 2018 “Opening the Door: A Human Conversation About Having Dark Feelings”  
Panelist, community presentation sponsored by Mount Evans Hospice.  
Evergreen, CO.
- 2017 - present “Correctional Psychiatry: Clinical Management of Offenders Within the  
Colorado DOC”  
University of Colorado Department of Psychiatry resident lecture (annual)  
University of Denver Law School lecture  
The Medical Center of Aurora Psychiatry Residency program
- 2017 “Therapeutic Risk Management of the Suicidal Patient”  
Panelist, 48<sup>th</sup> annual meeting of the American Academy of Psychiatry and  
the Law (AAPL). Denver, CO
- 2017 “Maintaining Quality and Standards in Assessing Competency to Proceed”  
Panelist, annual training for Colorado Mental Health Institute at Pueblo  
(CMHIP) evaluators of competency to proceed. Colorado Springs, CO
- 2016 – 2019 “Seminar on Correctional Psychiatry”  
Monthly seminar with forensic psychiatry fellows and rotating  
residents/students in the Department of Corrections.
- 2014 “The Emotional Impact of Psoriasis and Psoriatic Arthritis”  
National Psoriasis Foundation *More Than Skin Deep* Presentation  
Denver, CO
- 2012 “The Insanity Defense: Past and Present”  
Colorado Criminal Justice Association (CCJA) Annual Meeting, Pueblo,  
CO
- 2012 “Involuntary Medication for Colorado Jail Inmates: Application of  
Washington v. Harper”  
County Sheriffs of Colorado, Denver, CO
- 2011 - 2017 “A Career in Correctional Psychiatry”  
University of Colorado Department of Psychiatry resident lecture (annual)
- 2009 - 2015 “Psychopharmacology for Psychotherapists”  
Colorado Department of Corrections Training Academy  
Monthly lecture for DOC mental health trainees
- 2006 - present “The Psychology of Stalking – Criminal and Forensic Perspectives”

University of Colorado Department of Psychiatry forensic fellowship  
lecture (annual)

University of Denver Law School lecture

The Medical Center of Aurora Psychiatry Residency program lecture

- 2000 “Agonist-Induced Up-Regulation of Dopamine Receptors in Transfected  
Cell Lines”  
Howard Hughes Medical Institute, Chevy Chase, MD

## Publications

- 2024 Lish, D. Seclusion, Restraint, and Involuntary Medication. In J. Metzner,  
R. Kapoor, A. Tamburello & J. Knoll (Eds.), *Oxford Textbook of  
Correctional Psychiatry* (2<sup>nd</sup> edition). Oxford University Press (in press).
- 2023 Ahern, M, Lish, D, & Martinez, R. Expert Witness Testimony and  
Consequences of a Not Guilty by Reason of Insanity Verdict. *Journal of  
the American Academy of Psychiatry and the Law* 2023; 51(4) 591-593.
- 2022 Mayer T, Thompson E, & Lish D. Burdens of Proof in Federal Civil  
Commitment Proceedings. *Journal of the American Academy of  
Psychiatry and the Law* 2022; 50(4) 653-654.
- 2021 James C, Lish D, & Martinez R. Private Entities as State Actors in Civil  
Commitment Procedure. *Journal of the American Academy of Psychiatry  
and the Law* 2021; 49(4): 642-645.
- 2021 Heneghan M, Lish D, & Martinez R. Cross-examination and Witness Bias  
in Attempted First Degree Murder. *Journal of the American Academy of  
Psychiatry and the Law* 2021; 49(4): 645-647.
- 2018 Lish, D. (2018, December). Connection. *Clinical Connection, Colorado  
Department of Corrections, 17*
- 2018 Lish, D. L. Review of *Ethics Challenges in Forensic Psychiatry and  
Psychology Practice*, edited by Ezra E. H. Griffith, M.D. *The American  
Journal of Psychiatry* 2018; 175(10):1024-1025
- 2018 Lish, D. (2018, August). Defining Mindfulness. *Clinical Connection,  
Colorado Department of Corrections, 16*
- 2018 Lish, D. (2018, May). Just Do It. *Clinical Connection, Colorado  
Department of Corrections, 15*

- 2017 Lish, D. (2017, September). Attunement with Others. *Clinical Connection, Colorado Department of Corrections, 14*
- 2017 Lish, D. (2017, June). Top Regrets of the Dying. *Clinical Connection, Colorado Department of Corrections, 13*
- 2017 Lish, D. (2017, March). Psychopaths' Regret. *Clinical Connection, Colorado Department of Corrections, 12*
- 2016 Lish, D. L. Review of *People with Mental Illness in the Criminal Justice System: Answering a Cry for Help*, by The Group for the Advancement of Psychiatry, Committee on Psychiatry and the Community. *The American Journal of Psychiatry* 2016; 173(10):1048-1049
- 2015 Lish, D. (2015, August). Living with Gender Dysphoria. *Clinical Connection, Colorado Department of Corrections, 11*
- 2015 Lish, D. (2015, May). Achieve More by Doing Less. *Clinical Connection, Colorado Department of Corrections, 10*
- 2015 Lish, D. (2015, January). Dementia in the Incarcerated Setting. *Clinical Connection, Colorado Department of Corrections, 9*
- 2014 Lish, D. (2014, April). How Psychotherapy Affects the Brain. *Clinical Connection, Colorado Department of Corrections, 8*
- 2013 Lish, D. L. Review of *The Mental Health Professional in Court: A Survival Guide*, by Thomas G. Gutheil, M.D. and Eric Y. Drogin, J.D., Ph.D. *The American Journal of Psychiatry* 2013; 170(7):807-808.
- 2013 Lish, D. (2013, October). Minding Anger. *Clinical Connection, Colorado Department of Corrections, 7*
- 2013 Lish, D. (2013, July). Mood Swings Do Not Equal Bipolar Disorder. *Clinical Connection, Colorado Department of Corrections, 6*
- 2013 Lish, D. (2013, March). The Problem With Meth. *Clinical Connection, Colorado Department of Corrections, 5*
- 2012 Lish, D. (2012, December). The Adolescent Brain. *Clinical Connection, Colorado Department of Corrections, 4*
- 2012 Lish, D. (2012, September). The Insanity Defense: A 15-Minute Primer. *Clinical Connection, Colorado Department of Corrections, 3*

- 2012 Lish, D. (2012, June). Cannabis and Psychosis. *Clinical Connection, Colorado Department of Corrections, 2*
- 2012 Lish, D. (2012, January). Traumatic Brain Injury in Sports. *Clinical Connection, Colorado Department of Corrections, 1*
- 2005 Lish, D. National Research Council Report Makes Case Against Polygraph Admissibility – Revisiting the *Daubert* Standard for Polygraph Use in Courts. *American Journal of Forensic Psychiatry* 2005; 26(2):23-43.
- 2005 Lish, D, & Salomy, D. Pretrial Mental Retardation Assessment in Capital Punishment Cases. *Journal of the American Academy of Psychiatry and the Law* 2005; 33(1):117-119.
- 2001 Yale University School of Medicine Thesis, Department of Neurobiology “Agonist-Induced Up-Regulation of Dopamine Receptors in Transfected Cell Lines.” 54p.
- 1995 UCLA Undergraduate Honors Thesis, Department of Psychobiology “Electrical Self-Stimulation of the Medial Forebrain Bundle. Causes of Reward Saturation at Low Currents and High Pulse Frequencies: A Study of the Current Wall.” 56p.

# **Exhibit 4**

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

You may be affected by the proposed settlement of claims made under 42 U.S.C. § 1983, the due process clauses of the Fourteenth Amendment to the United States Constitution, and Article 2, Section 7 of the Constitution of the State of Oklahoma, and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 in the lawsuit styled *Briggs, et al. v Allie Friesen, et al.*, Case No. 4:23-cv-00081-GKF-JFJ, pending in the United States District Court for the Northern District of Oklahoma. This notice summarizes the claims in the lawsuit, what the proposed settlement entails, and your rights under the proposed settlement.

### **1. What is the issue in the lawsuit?**

Whether the Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services (“Department”) and the Executive Director of the Oklahoma Forensic Center (OFC), located in Vinita, Oklahoma, failed to provide timely court-ordered competency restoration treatment to persons charged with a crime in Oklahoma state court and who are incarcerated in county jails, or similar detention facilities, throughout the State.

### **2. Who is affected by the settlement? Who is a “Class Member”?**

A Class Member is any person who has been, or will be, charged with a crime in Oklahoma state court, declared incompetent to stand trial by the state court, and is incarcerated in a county jail or similar detention facility awaiting court-ordered competency restoration services to be provided by the Department. If you have any question as to whether you are affected by this settlement, contact the Class Counsel referred to in Question 6 on Page 2 of this Notice.

### **3. What is the proposed settlement?**

The Plaintiffs and the Defendants have reached a proposed settlement agreement that, if accepted by the Court, would result in a “Consent Decree” being entered by the Court. The Consent Decree will resolve all of Plaintiffs’ claims in the lawsuit. The purpose of the Consent Decree is to reform and improve the Department’s delivery of competency evaluations and timely restoration treatment to Class Members, including significantly reducing the amount of time Class Members wait to receive competency restoration treatment while locked up in jail. The Consent Decree achieves this goal by requiring the Department, within 90 days after the Court’s final approval of the Consent Decree, to develop and implement a strategic “Plan.” Under the Plan, Defendants are required, among other things, to use “Best Efforts” to:

- Reevaluate all Class Members currently waiting to receive competency restoration treatment, which must be performed by a “Qualified Forensic Examiner.”
- Cease operation of the Department’s current purported state-wide in-jail competency restoration program, while allowing for continuation of current medical treatment of Class Members while still in jail.

- Increase the Department’s inventory of in-inpatient forensic beds dedicated solely for competency restoration.
- Upgrade OFC’s staffing and environment-of-care standards.
- Develop and implement a continuing education program for OFC psychiatrists, psychologists and other clinical staff involved in competency restoration.
- Develop and implement a competency restoration triage screening program intended to expedite evaluation and placement of Class Members in appropriate restoration treatment settings.
- Impose deadlines for performing court-ordered competency evaluations and for reevaluations by Qualified Forensic Examiners.
- Impose deadlines by which the Department must provide restoration treatment to Class Members who have been declared incompetent.
- Develop and implement a community-based restoration treatment pilot program in four Oklahoma counties.
- Develop and implement of an in-jail restoration treatment pilot program in two Oklahoma Counties, including Tulsa County.
- Develop and implement a plan for enhanced staffing at the Department dedicated to competency restoration, including data gathering, reporting and management.
- Provide increased competency restoration training to relevant state-court personnel.

The Consent Decree appoints a panel of three independent experts, called “Consultants,” who will help the Department develop the Plan, but also monitor and report the Defendants’ compliance, or lack of compliance, with the Consent Decree. The Consultants must approve all Plan components developed by the Defendants.

To incentivize the Defendants to work in good faith to develop and implement the Plan, the Consent Decree establishes a regime of fines that will be imposed on the Department if it fails to meet the deadlines for reducing the time periods Class Members wait to receive competency restoration treatment.

The Consent Decree requires the Department to pay the Consultants’ fees and to pay Class Counsel reasonable attorney fees, which Class Counsel has substantially discounted.

The Consent Decree will **not** impact your rights, defenses and arguments in your state court criminal case. The Consent Decree only deals with improving the Department’s timely delivery of competency evaluations and restoration treatment.

You have the right to learn more about the proposed settlement. A copy of the proposed Consent Decree is posted at <https://www.okcompetencyrestoration.com>. If you are unable to access the Consent Decree online, or if you can’t read or understand the Consent Decree, you can contact Class Counsel referred to in Question 6 below.

**4. Who represents the individuals affected by the settlement?**

The lawyers representing the Class Members (“Class Counsel”) are Paul DeMuro and Frederic Dorwart of Frederic Dorwart, Lawyers PLLC, Old City Hall, 124 East 4<sup>th</sup> Street, Tulsa, Oklahoma 74103, (918) 583-9957, and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc., 2816 E. 51<sup>st</sup> Street, Suite 300, Tulsa, Oklahoma 74105, (918) 743-6220.

**5. What are your options?**

The United States District Court for the Northern District of Oklahoma has preliminarily approved the Consent Decree; but, the Court will hold a hearing to determine whether final approval should be granted. At the hearing, the Court will determine if the Consent Decree is fair, reasonable, and adequate. **The final fairness hearing has been set for \_\_\_\_\_, at \_\_\_\_\_ a.m., in Courtroom \_\_\_\_\_ of the Page Belcher Federal Building, 224 S. Boulder Ave., Tulsa, Oklahoma 74103.** You may, but are not required to, request to appear at the hearing if you submit a written objection or comment regarding the settlement, using the attached “Response to Proposed Class Action Settlement” form or your own paper, or if you submit an objection or comment online. The Court will decide which class members will testify. Class members who do not appear at the final fairness hearing will be represented by Class Counsel.

If you have objections, comments, or statements about the proposed Consent Decree, you can submit them in one of two ways:

First, you can submit comments, questions or objections on the attached “Response to Proposed Class Action Settlement” form or your own paper. If you choose to send an objection, comment, or statement, you must include your full name, all objections or comments and the reasons for them, any and all supporting papers (including all briefs, written evidence, and declarations), and your signature. If you are sending supporting papers, do not send originals because they will not be returned to you. **Written objections, comments, and statements should be sent to the following address: Paul DeMuro, Frederic Dorwart, Lawyers PLLC, Old City Hall, 124 East 4<sup>th</sup> Street, Tulsa, Oklahoma 74103.**

Second, you can submit comments, questions or objections on the case’s website at <https://www.okcompetencyrestoration.com>. You must include your full name, all objections or comments and the reasons for them.



All comments, questions, or objections must be submitted or postmarked by \_\_\_\_\_. Properly and timely submitted objections and comments will be consolidated and submitted to the Court on \_\_\_\_\_, in advance of the \_\_\_\_\_ hearing.

**Any objections, comments, or questions that do not comply with the above procedures and timeline will not be heard or considered by the Court.**

**6. How can you get more information?**

If you have any questions about the matters contained in this notice, or any questions regarding the proposed Consent Decree, you may write or call Class Counsel's office below:

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Frederic Dorwart, Lawyers PLLC  
Old City Hall  
124 East 4<sup>th</sup> Street  
Tulsa, OK 74103  
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[okcompetencyrestoration@fdlaw.com](mailto:okcompetencyrestoration@fdlaw.com)

