

David Ferleger

ATTORNEY

November 4, 2014

TO: Hon. Donovan W. Frank

FROM: David Ferleger

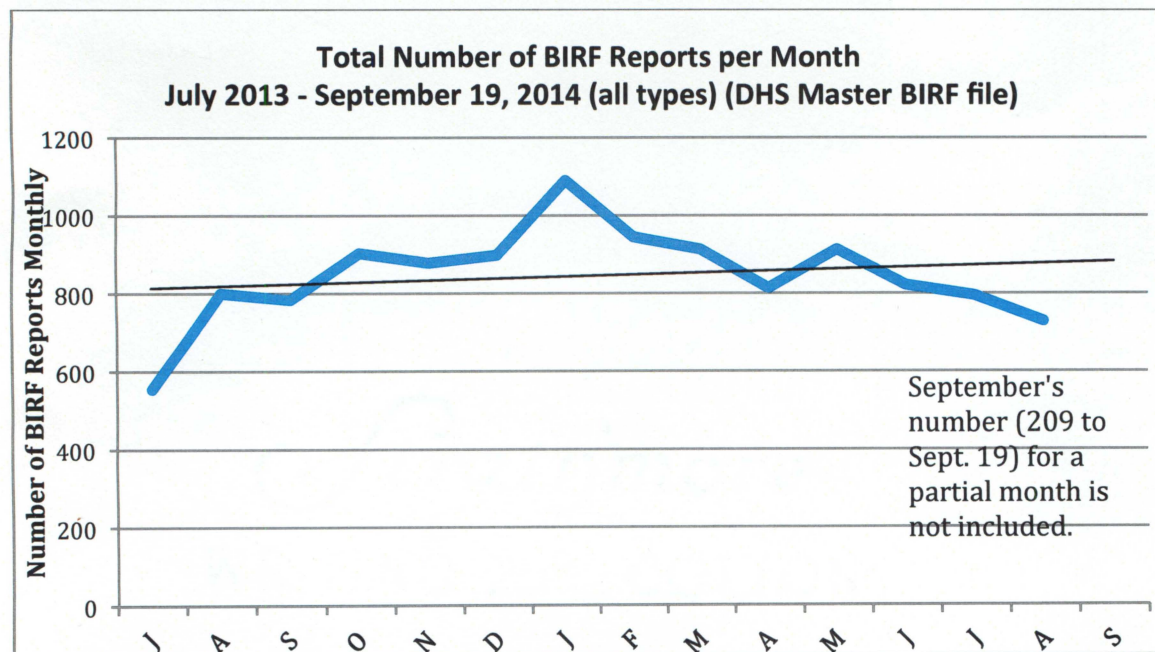
SUBJECT: DHS' "Statistics"

DHS' letter suggests that the Court Monitor "a small number of individual situations and extrapolating them as broadly systemic without a basis in fact. . . ." (p. 1). We've looked at the overall picture. Here it is.

DHS' data mentions only a portion of the information in the 12,000+ Behavior Intervention Reporting Forms they have received from providers. DHS states only that "mechanical restraint and timeout/seclusion, and "prone restraint" have decreased. *However, DHS does not include change in the use of manual restraint, chemical restraint, time out, and penalty systems, or use of 911 police calls. All these are covered in the BIRF reports. See BRIF form attached, at 3.*

(The Court will recall that at Cambridge, when use of mechanical and manual restraint decreased, chemical restraint and 911 calls increased. The same process appears to be occurring here).

If there has been an overall reduction in behavioral interventions, the graph over time would demonstrate that reduction. That is not the case, however. Over time, the number is generally over 800, with an upward trend line.



If the quality of life for individuals is improving, the use of all the behavioral intervention techniques would decrease over time. If the “positive behavior supports” were effective (and individualized in light of experience), the use of these techniques would decrease over time as well. They are not.

I’ll leave discussion of the rest of DHS’ letter (and Plaintiffs’) for when we meet.

See you soon.¹

¹ There are other weaknesses in DHS’ response letter.

- The DHS prone restraint report does not include 33 prone restraint uses which were not captured in the search request DHS used.
- DHS compares January 2014 and August 2014 numbers for mechanical/timeout/seclusion without explanation for why 2013 is excluded.
- DHS ignores that many individuals are subject to mechanical, timeout and prone restraint repeatedly during the months, and for extended periods of time. Simply looking at “number of incidents” does not reflect the degree or duration of the interventions.



Behavior Intervention Reporting Form

Page 1 of 7

NPI/UMPI and Location Number

Enter the NPI/UMPI and 3-digit location number, then click the 'Enter' button.

PROVIDER INFORMATIONMERIDIAN SERVICES INC
9400 GOLDEN VALLEY RD

GOLDEN VALLEY MN 55427

PROVIDER PHONE NUMBER

PROVIDER EMAIL

CONFIRM EMAIL



SERVICES PROVIDED AT THE TIME OF THE INTERVENTION

Person completing this form

FIRST NAME

LAST NAME

Affirmation Statements

- ☒ I acknowledge that the completion and submission of this Behavior Intervention Report Form does not constitute mandated reporting of suspected or alleged maltreatment of a vulnerable adult or child under Minnesota Statutes, sections 626.557 and 626.556.

The information and data reported in this Behavior Intervention Report Form involves an incident of suspected or alleged maltreatment of a vulnerable adult or child under Minnesota Statutes, sections 626.557 and 626.556.

☐ Yes ☒ No

1. If the person is in imminent danger, then immediately call 911 for local law enforcement and/or emergency first responders.
2. If the person is not in immediate danger. Contact either:
 - A. The County Common Entry Point (CEP) agency listed (*see link at right*) or
 - B. The Minnesota Department of Human Services, Division of Licensing at 651-431-6600.

- ☒ I acknowledge that the completion and submission of this Behavior Intervention Report Form does not constitute a mandated report of death or serious injury to be submitted to The Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD) as required under Minnesota Statutes, section 245.94, Subd. 2a.

The information and data reported in this Behavior Intervention Report Form involves the death of a person, and requires further reporting to The Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD) as required under Minnesota Statutes, section 245.94, Subd. 2a.

☐ Yes ☒ No

The information and data reported in this Behavior Intervention Report Form involves serious injury to a person, and requires further reporting to The Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD) as required under Minnesota Statutes, section 245.94, Subd. 2a.

☐ Yes ☒ No

Person receiving services

PMI NUMBER FIRST NAME MI LAST NAME DATE OF BIRTH GENDER
 ☐ Male ☒ Female

☐ Check this box if the person is privately funded and has no PMI number.

DIAGNOSIS (select all that apply)

☒ Developmental Disabilities
 ☐ Non-Developmental Disability - Intellectual Disabilities (e.g., Brain Injury, Neurological Disease, etc.)
 ☐ Physical/Medical Disabilities
 ☐ Elderly with Age-Related Impairments
 ☒ Mental Illness

PRESCRIBED PSYCHOTROPIC MEDICATION(S)

Multiple psychotropic drugs (pick the one that best describes)

The person has within their service plan:

☒ Positive Support Transition Plan
☐ Functional Behavior Assessment within 12 months
☐ Diagnostic Assessment within 12 months

Does the person have any conditions for which physical intervention is contraindicated?

☐ Yes ☒ No

DATE OF INTERVENTION	TIME INTERVENTION BEGAN	INTERVENTION LOCATION TYPE
8/26/2014	7:20 pm	Residence

INTERVENTION LOCATION ADDRESS	CITY	STATE	ZIP CODE
4600 Colorado Ave N	Crystal	MN	55422

Provider staff involved in the behavior intervention

[illegible]

Displayed behavior(s) resulting in behavior intervention(s) (check all that apply)

- ☐ Physical aggression/Physical assault
- ☐ Self-injury/Physically injures or harms self
- ☒ Self-endangerment/Risks personal safety
- ☐ Property destruction/Property damage that could harm the person or other people
- ☐ Other behavior (e.g., verbal aggression, threats, loud vocalizations, disruptive, not following directions, etc.)

SPECIFY:

De-escalation efforts

TIME WHEN DE-ESCALATION OCCURRED

LENGTH OF TIME INVOLVED IN DE-ESCALATION EFFORTS

HOUR(S)MINUTES

Describe the less restrictive alternative measures that were attempted, if any, to de-escalate the situation and maintain safety before the intervention(s) occurred.

REFERENCED IN DF MEMO

Characters remaining: 4000

Intervention(s) used	Length of Time		<input type="checkbox"/> Less than 1 minute	Number of Uses	<input type="checkbox"/> Prone restraint was used
	HOUR(S)	MINUTES			
Manual Restraint/Physical Holding	<div></div>	<div></div>		<div></div>	
Mechanical Restraints/Devices that Constrain the Person	<div>1</div>	<div>5</div>		<div>5</div>	
Wearing of Self-Harm/Self-Injury Protection Equipment	<div></div>	<div></div>		<div></div>	
Wearing of seat belt restraints (e.g., specialized buckle clips, seat harnesses, etc.)	<div></div>	<div></div>		<div></div>	
Time-Out from Activities/Removal from Ongoing Participation	<div></div>	<div></div>		<div></div>	
Room Time-Out/Seclusion Room Isolation	<div></div>	<div></div>		<div></div>	
Penalty Consequences (Loss of tokens, points, levels, items, activities, privileges, money or required to fix/replace property)	<div></div>	<div></div>		<div></div>	
<input type="checkbox"/> NONE					
<input type="checkbox"/> Other intervention(s) used for displayed behavior(s) (check all that apply)					
<input type="checkbox"/> PRN psychotropic medication administered	<div>Select one</div>				
<input type="checkbox"/> Called 911 for law enforcement or other first responder involvement	<div>Select one</div>				
<input type="checkbox"/> Emergency psychiatric hospitalization	<div>Select one</div>				
<input checked="" type="checkbox"/> NONE					

Is there a need for specialized and intensive behavioral consultation and support services from outside professionals?

☒ Yes ☐ No

Is there a plan for a crisis respite placement as a result of the displayed behavior(s) and intervention(s)?

☐ Yes ☒ No

Will this person be temporarily suspended from services due to displayed behavior(s)?

☐ Yes ☒ No

Will this person be discharged or terminated from receiving further services due to displayed behavior(s)?

☐ Yes ☒ No

Injuries

☐ To the person receiving the intervention

INJURY CARE CHOICE

No Care Needed

TYPE(S) OF INJURY (select all that apply)

No Injury

Paralysis
Infection
Communicable Disease Contraction
Gun Shot Wound
Death
Other
Fracture

Asphyxiation/Anoxia
Cut/Laceration
Exposure: Heat Stroke/Heat Exhaustion

☐ To staff

INJURY CARE CHOICE

No Care Needed

TYPE(S) OF INJURY (select all that apply)

No Injury

Paralysis
Infection
Communicable Disease Contraction
Gun Shot Wound
Death
Other
Fracture

Asphyxiation/Anoxia
Other
Cut/Laceration
Exposure: Heat Stroke/Heat Exhaustion

☐ To other people

INJURY CARE CHOICE

No Care Needed

TYPE(S) OF INJURY (select all that apply)

No Injury

Paralysis
Infection
Communicable Disease Contraction
Gun Shot Wound
Death
Other
Fracture

Asphyxiation/Anoxia
Other
Cut/Laceration
Exposure: Heat Stroke/Heat Exhaustion

Post-intervention debriefing sessions with: (check all that apply)

- ☐ The person receiving the intervention
- ☒ The staff involved
- ☐ Other people involved

Narrative description of the intervention and surrounding circumstances

1. Describe the physical and social environment, including who was present before and during the time leading up to the intervention

Physical - [REDACTED] was lying on the bed in her room.

Social - 1 staff in bedroom with [REDACTED], and another in the hallway.

Characters remaining: 3884

2. Describe the mental, physical, and emotional condition of the person as well as the specific behavior(s) the person displayed before and during implementation of the intervention

Mental - [REDACTED] appeared to be struggling (blank stares, slurred words)

Physical - Tense hands and feet, sweaty

Emotional - Nervous and anxious

Specific Behaviors - Heavy breathing, knuckle cracking

Characters remaining: 3802

3. Describe the behavior intervention(s) used and the resulting outcome

[REDACTED] was placed into the mechanical restraint chair upon her request. [REDACTED] was released upon her request, she then went to bed immediately after.

Characters remaining: 3858

4. Describe the mental, physical, and emotional condition of the person after the intervention

Mental, Physical , Emotional - [REDACTED] appeared to be very tired and went straight to bed after release.

Characters remaining: 3900

5. Describe the plan to positively support the person and avoid future uses of behavioral interventions

Staff will continue to support [REDACTED] by offering her alternative coping strategies.

Characters remaining: 3919

- ☐ The plan as described reflects a significant change in the person's service and support plan in order to avoid future uses of restrictive behavioral interventions.
- ☒ The plan as described represents that no significant changes are needed at this time.

6. Summary of the recommendations made by the internal review team

Meridian will continue to follow the PSTP as it is written and will consult with [REDACTED] team.

Characters remaining: 3908

Notifications of incident and intervention usage

Contact	Date contacted	Time contacted
<div></div>	7/26/2014	7:30 pm
Select one		
Select one		
Select one		
Select one		
Select one		
Select one		
Select one		

COUNTY/TRIBAL LEAD AGENCY FUNDING THE PROVIDED SERVICES

Hennepin

COUNTY/TRIBE WHERE THE SERVICES ARE ACTUALLY PROVIDED

Hennepin