

THE MINNESOTA
GOVERNOR'S
COUNCIL^{ON}
DEVELOPMENTAL
DISABILITIES

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May 5, 2015

The Honorable Donovan W. Frank
United States District Court
District of Minnesota
724 Federal Building
316 North Robert Street
St. Paul, Minnesota 55101

Dear Judge Frank:

Thank you for the opportunity to respond to the Court Monitor's "Report to the Court: Verification of Representation by the State" (Doc. 414), filed on April 14, 2015; and the responses provided by Settlement Class Counsel (Doc. 430), filed on April 28, 2015; the Defendant (Doc. 429 and 429-1), filed on April 28, 2015; and the follow-up response by the Court Monitor (Doc. 431), filed on April 29, 2015. This letter is provided in response to the Court Order of April 14, 2015 (Doc. 415).

Regarding My Role:

My role as a consultant to the Jensen case began almost six year ago. I have had daily contact with the issues and have tried to read every document associated with the case. I have provided comments or consultation whenever possible. My role has not been to verify the accuracy of reports and so it is difficult to offer any insight about the Crisis Response Team (CSS), the Mobile Support Teams, or the various training issues raised in the original report by the Court Monitor. I do know that crisis services must be improved and that the continuous improvement projects mentioned in the Defendant's response may provide relief for individuals with complex needs. I believe that Roberta Opheim will provide additional information about the topic of crisis services in her letter to the Court.

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Verification of Reports:

At both the March and April 2015 Monthly Parties Meetings, Roberta Opheim and I participated in discussing the Evaluation Criteria (EC) of the Comprehensive Plan of Action. These monthly meetings have now shifted from general discussions to the verification of information that is being presented to the Court Monitor and the Court.

We believe this is a positive step forward. There are at minimum three basic questions that can be asked about each Evaluation Criterion:

1. What is the current process for verification of the information?
2. Who is responsible for verification of the information?
3. When was the last verification completed?

Roberta Opheim and I will probably be suggesting that this same method of verification be used with all future Olmstead Status Reports.

The topic of compliance has been discussed on several occasions since January 2012. It is my understanding that the criteria used to judge the integrity of information includes the accuracy of the information, completeness of the response, timeliness, and verification. One topic for the upcoming status conference could be confirmation by the parties that these criteria are acceptable.

We must do things right the first time. We should not be passing along information or preparing and submitting reports that are not complete, not accurate, and not timely; and contain data that cannot be verified. Verification should be performed at the first level of reporting. Because of the Court Monitor's original report, all of us must ask more questions about compliance and verification from this point forward.

The Court Monitor's report points to a lack of alignment to the Jensen Settlement Agreement, the Comprehensive Plan of Action, and the Olmstead Plan. Too much time has been spent on "do-overs" because we become immersed in daily activities rather than strategic actions. Supervisors, managers and senior leaders in all state agencies must consistently deliver messages about the importance of verification of reports.

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Achievements:

I concur with the list of achievements that appear on pages 15-16 of the Court Monitor's report. Changes have occurred since the Jensen Settlement Agreement was approved on December 5, 2011. On a day to day basis, I can see the hard work and the progress being made, but also the setbacks.

This has been a frustrating experience, but I also know it is the most important work that must be completed to fully implement the terms of the Settlement Agreement and the outcomes envisioned. This lawsuit is about the civil rights of people with disabilities and improving the quality of their lives now and in the future. In looking back at other major lawsuits, the Welsch case lasted 17 years, the Partlow case in Alabama lasted 33 years, and the Willowbrook review panels are still operating after 40 years. Unless the pace of compliance with the Jensen case picks up, the Court's jurisdiction might be extended for a longer period of time than first anticipated.

Focus on End Results First

The Court ordered that the Olmstead Subcabinet report on three major areas: (1) Are people with disabilities moving from segregated to integrated settings? (2) Are people with disabilities moving from the waiting list? and (3) Report any and all quality of life survey results.

In reviewing the Minnesota Olmstead Subcabinet Report to the Court, Status Update, January 1, 2015-February 28, 2015, Report #7, the Court will find that, during calendar year 2014, we did not make progress in all areas:

- A. Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD): A total of 73 people with developmental disabilities moved to community settings and 80 people died.
- B. Nursing Homes: A total of 729 people with disabilities (under age 65 years) moved to community settings and 404 people with disabilities (under age 65 years) died.
- C. Anoka-Metro Regional Treatment Center: A decrease of 11 people in the average daily census.
- D. Minnesota Security Hospital: A decrease of eight people in the average daily census.

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- E. Regarding the waiting lists: For the DD waiver, a decrease of 59 people; and for the CADI waiver, an increase of 91 people.

Regarding quality surveys, our Council has conducted surveys of people with developmental disabilities and their families/guardians in 2000, 2005, and 2010 as part of our five year planning process. This is a brief summary of trends according to the federally defined outcomes of independence, productivity, and inclusion. These results are not part of the Olmstead Subcabinet work but can be used as quality of life topics in areas that need improvement.

Independence:

1. The level of satisfaction with independence has gone down during the past decade from 65 percent to 60 percent to 55 percent.
2. The younger the person with a developmental disability, the less satisfied with the level of independence.
3. The more significant the disability, the less satisfied with the level of independence.
4. The most important factors of independence were rated as the ability to go places on their own, privacy, and living near people who are important to the respondents.
5. People with developmental disabilities are most concerned about selecting their provider, where they live, and with whom they live.

Productivity:

1. The percentage of people with developmental disabilities who worked or volunteered changed from 84 percent to 58 percent to 76 percent (2000, 2005, and 2010).
2. The level of satisfaction with productivity has gone down and up during the past decade from 62 percent to 53 percent to 71 percent.
3. The average number of hours of work or volunteer time has stayed about the same 18 hours in 2000, under 20 hours in 2005, and 17 hours in 2010.
4. People with developmental disabilities want to work more hours and this number has increased from 17 percent to 31 percent to 35 percent.
5. The most important factors of productivity include: improving skills, taking on more responsibility, and receiving recognition for work achieved.
6. The more significant the disability, the less satisfaction with productivity.

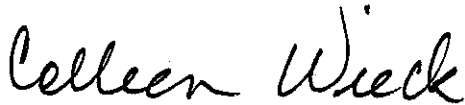
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Inclusion:

1. Inclusion received the lowest rating of satisfaction from 55 percent (2000) to 54 percent (2005) to 50 percent (2010).
2. Young people with developmental disabilities are the most dissatisfied with their level of inclusion.
3. Key drivers of inclusion are being treated as an equal in society, being treated with respect in society, and the opportunity to develop relationships with people without disabilities.
4. People do feel included in their families.
5. The more significant the disability, the less satisfaction with inclusion.

On a daily basis I hear from self-advocates and family members. There is a pent up demand for improvements in Minnesota. Are we headed in the right direction? Yes, in some areas. Can we do a better job? Yes, with greater attention and with the State of Minnesota pulling together. I can assure the Court and the Court Monitor that I take all of the documents submitted to the Court seriously, and I will do my best to assist in whatever way that I can.

Respectfully,

A handwritten signature in black ink that reads "Colleen Wieck". The signature is written in a cursive, flowing style.

Colleen Wieck, Ph.D.
Executive Director

cc: David Ferleger, Court Monitor
Shamus O'Meara, Plaintiff Class Counsel
Office of the Minnesota Attorney General
Department of Human Services