

# EXHIBIT A

**Figueroa, Rick (DHS)**

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**From:** Wieck, Colleen (ADM)  
**Sent:** Tuesday, April 05, 2016 10:11 AM  
**To:** Booth, Peg (DHS); Figueroa, Rick (DHS); Ikeda Scott; Sullivan Hook, Karen E (DHS); Noss, Anthony; Shamus P. O'Meara; Office David; David Ferleger (david@ferleger.com)  
**Cc:** Wieck, Colleen (ADM); Opheim, Roberta (OMHDD)  
**Subject:** clarifications needed before sampling strategy is confirmed

Hi Everyone:

Roberta Opheim and I met yesterday afternoon and discussed the sampling strategies. We cannot sign off on any sampling strategies until we learn more information about the proposed statement of work for EC 93 and EC 98. Perhaps the sampling strategy document could be expanded to add an introductory section that explains the tasks needed to verify accuracy, completeness, reliability and validity of both EC 93 and EC 98.

We have re-read the Compliance Report and when we look at EC 93, it states that the Department has met criteria. Then we read through the details and we are unsure if there are enough facts being presented in the Gap Report. So we assume that the Court would like to understand whether the mobile teams are up and running. The Court may also want to know about the activities and the results of the mobile teams.

So here are our questions and comments about EC 93.

1. In the expanded statement of work add a definition of a mobile team from the DHS Bulletin. Roberta is especially interested in the response time of any mobile team and whether that response time can be verified. Also, can we clarify if the definition of "deployment" is applied consistently across the department.
2. If a spread sheet has already been completed, can we add a final column for "results" of the deployment event? If that addition exceeds the court's expectations, would DHS and the Court Monitor agree to add results of the mobile team deployment event?
3. Roberta and I asked whether the tasks anticipated to verify EC 93 can be listed or if this list could be considered as a starting point:
  - A. Determine if there were 17 deployment events. If so, the Court Monitor could first look at the documents submitted to the Jensen Office to determine if the counts are accurate.
  - B. The Court Monitor could then make 17 calls to verify that the deployment events occurred as recorded and submitted to DHS. The Court Monitor could also record the results of the deployment event based upon the interviews with local providers.
  - C. To verify reliability, the Court Monitor could determine if the recordkeeping is consistent across the three groups that dispatch mobile teams--CSS, MLB and SLP. Is a deployment event recorded in the same way to allow consistent performance reporting for mobile teams?
  - D. To verify validity, the Court Monitor could check whether each entry is accurate in the report--name of person, date, length of time of visit, response time, who was dispatched, results, etc.

4. The Court Monitor would then summarize and report to the Court what are the facts about mobile teams to confirm whether the criteria was met.

We also re-read the Compliance Report regarding EC 98 to clarify what work was completed by SLP staff members during the Gap Report time period of May to September 30, 2015. There were 263 initial assessments completed but is that the number of assessments completed since SLP was initiated? The Gap Report stated that 43 individuals were being tracked during the last reporting period (May-September 2015).

Roberta and I would like to ask if these are the tasks anticipated for EC 98:

1. First clarify what work was done by SLP during the Gap Report time period? We believe the number is 43.
2. Clarify if the Court is asking about accuracy of reporting for the entire class or those individuals tracked during the Gap Reporting time period. This step seems to us to be critical because it is the difference of verifying 43 records vs. drawing a sample of over 300 records.
3. Determine if the Court Monitor's duty is to confirm: (a) how many people were prevented from institutionalization and (b) how many people were maintained to stay in the most integrated setting because of SLP efforts.
4. If there are 43 class members being tracked then the Court Monitor would verify that actions were taken by SLP staff members to address the two purposes. It is unknown to us how records are being kept by SLP staff members. If the records are incomplete then verification calls would need to be made to providers where the individuals live and work.
5. If the entire population of 300+ people is being considered, then can one factor be whether SLP has been informed that an individual is experiencing a problem or something is going wrong or the individual is not experiencing the quality of life desired?
5. We assume that DHS would be responsible for notifying the counties and the providers of this verification work so they are prepared to handle any calls.
6. To determine reliability, the Court Monitor would review the records and verify the actions listed in the reports.
7. To determine validity, the Court Monitor would verify the accuracy of the records of the individuals included in the sample.

The Court Monitor would then submit a report to the Court verifying the work of the SLP staff members as reported in the Gap Report.

Thanks,  
Colleen and Roberta

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<http://mn.gov/mnddc>

<http://mn.gov/mnddc/pipm>

# EXHIBIT B

**David Ferleger**  
ATTORNEY

April 5, 2016

TO: Dr. Colleen Wieck and Roberta Opheim

FROM: David Ferleger

SUBJECT: Court Monitor EC 93 and 98 Work Under March 18, 2016 Order

Thank you, Roberta and Colleen, for your useful email today regarding, in your phrase, "sampling strategies." I am pleased to respond. I cross-reference your questions and comments by your numbering (*i.e.*, EC 93/QC1, *etc.*).

I recognize that your email requests additional information and suggests that perhaps an introductory section might explain the tasks needed within the review. I am pleased to respond here to your concerns and, as always, am open to further discussion with you.

Preliminarily, please note that this stage of the process is to agree on selection of the representative sample, that is, on the identification of the individuals/situations. Although I will endeavor to respond and comment on your questions on how I will do the work, this is not the moment, nor are we required, to agree on the steps I will take to implement the review. Thus, it seems to me, this stage is about selecting the sample, and not about strategies and tasks for the upcoming review related to the sample.

Also, please note that the Court has not determined whether formal reporting of this review will occur.<sup>1</sup> (EC 93/ QC4; EC 98/No number).

On EC 93, the Court refers to DHS' statements that it provides "mobile supports" to individuals at "DHS facilities and individuals residing in community settings." (p. 19). As the Court ordered, I am to obtain information from DHS "about the deployment of mobile teams in response to crisis situations at DHS facilities and in community settings." (p. 20). I am to "verify that efforts reported with respect to mobile teams are accurate and complete." (*id.*). I am to "verify" whether the data "with respect to mobile teams is

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<sup>1</sup> Order at 23:

The Court shall continue to communicate with the Court Monitor while these duties are being completed. The Court Monitor must complete his verification efforts relating to Mobile Teams and the Successful Life Project no later than May 1, 2016. Once these tasks are completed, the Court Monitor will notify the Court that the work has concluded. The Court will then consult with the Court Monitor regarding his next steps and clarify whether any formal reporting is needed in connection with these verification efforts.

reliable and valid." (p. 20).

I will be examining 100% of the situations in which DHS believes there was a deployment covered by the Court's order and the DHS bulletin cited by the Court at pp. 20-21 of its order. As you saw last week, I have already requested DHS to provide me with all the data/information it used to support its report to the Court. (EC 93/ QC3A). To accomplish the work on EC 93, I intend to speak with relevant officials and staff, and others, in addition to reviewing files. I cannot say now that I would limit myself to your example of "17 calls." (EC 93/ QC3A-D). I will do what is reasonably needed to fulfill the Court's direction.

Definitional issues will be addressed, as needed, in the context (EC 93/ QC1). I will consider and note any results of the deployment; I do not know whether DHS' records include "results" and it seems not especially useful for DHS now after the fact to go back and characterize in a spreadsheet its view of the results. (EC 93/ QC2).

On EC 98, the Court states that DHS "has not provided sufficient information regarding the outcomes of the" Successful Life Project. (p. 22). I am to "verify the accuracy and completeness of DHS's representations with regard to the Successful Life Project and to evaluate the results of the project to determine whether the Successful Life Project is achieving[its] goals." (p. 22). I am to "verify the accuracy and completeness of DHS's statements, and the reliability and validity of the data DHS relies on." (p. 23).

As mentioned above, I have already requested DHS to provide me with all the data/information it used to support its report to the Court, and, because DHS reports broadly on the SLP and my assignment is to evaluate the results of the project, it will not be limited to the 43 on the priority list; in any event, the priority list is in flux. EC 98/QC1, QC2).

I will review records, interview officials, staff and other persons, and do what is reasonably appropriate to accomplish my assignment. Together with you, I do not know how SLP's records, and other related records, are kept, so I cannot say now what I will find when I review them. (EC 98/ QC3, 4, 5). I appreciate your description of a suggested standard (EC98/ QC5); however, I will hew to the Court's description of my tasks which may or may not overlap with the standard you mention.

Thank you for your consideration.

Cc: Ricardo Figueroa  
Scott Ikeda  
Karen Sullivan Hook  
Anthony Noss  
Shamus O'Meara