

Olmstead Plan Sub-Cabinet Meeting Minutes
January 29, 2013, 3:00pm-4:30pm
Anderson Building Room 2370

Subcabinet Members in Attendance: Yvonne Prettner Solon (Lieutenant Governor), Ed Ehlinger (Commissioner of Health), Colleen Wieck (Governor's Council on Developmental Disabilities), Roberta Opheim (Ombudsman for Mental Health and Developmental Disabilities), Mary Tingerthal (Commissioner-Minnesota Housing and Finance Agency), Nick Thompson (Assistant Commissioner-Department of Transportation), Rose Hermodson (Assistant Commissioner-Department of Education), Tom Roy (Commissioner-Department of Corrections), Lucinda Jesson (Commissioner-Department of Human Services), Kevin Lindsey (Commissioner-Department of Human Rights)

Others in Attendance: Anne Barry (DHS), Mike Tessneer (DHS), Gregory Gray (DHS), Micah Hines (GOV), Tonja Orr (MNHFA), Luke Kuhl (GOV), Lauren Gilchrist (GOV), Rosalie Vollmar (DHS)

TOPIC: WELCOME AND INTRODUCTIONS

DISCUSSION: Lieutenant Governor Yvonne Prettner Solon opened the meeting by welcoming everyone and thanking them for attending. The Governor signed an executive order yesterday creating the Olmstead Plan Sub-Cabinet and named her to chair the Sub-Cabinet.

All members were asked to introduce themselves, by stating their name, the agency they represent and explain how familiar they are with the Olmstead decision. All others in attendance were also introduced.

TOPIC: REVIEW OF GOVERNOR'S EXECUTIVE ORDER

DISCUSSION: Gregory Gray was asked to highlight some of the significant areas from the Executive Order that help provide an overview of what Olmstead is all about. Copies of the Executive Order were provided.

Greg drew everyone's attention to the Introduction on the first page which really conveys what this process is all about.

"Supporting Freedom of Choice and Opportunity to Live, Work, and Participate in the Most Inclusive Setting for Individuals with Disabilities through the Creation of Minnesota's Olmstead Plan".

Further down the document, the 2nd Whereas

“Whereas, the State of Minnesota recognizes that such services advance the best interests of all Minnesotans by fostering independence, freedom of choice, productivity, and participation in community life of Minnesotans with disabilities.”

This should involve discussion about person-centered planning, about options, about making sure that persons with disabilities have as open a series of choices as possible.

An excerpt from the fourth Whereas says:

“... the United States Supreme Court interpreted Title II of the ADA to require states to place individuals with disabilities in community settings, rather than institutions...”

Minnesota has made huge progress in moving from large institutions to more often than not smaller group homes. But if you're disabled and your whole environment is that group home, that is not really integrated. You are interfacing primarily with other people with disabilities. As we go further we'll see that the whole purpose is to give people the opportunity to integrate broadly with the community whether it's in their own apartment or some other setting of their choice with the support of guardians or others that are working with them.

From the second page:

“Whereas, the State of Minnesota has taken steps in response to the Olmstead decision through the past and current efforts of State agencies...”

This notes the fact that we're not starting from scratch. This is not a state that sat back and waited for something to happen. We've all been looking forward for opportunities to further integrate folks with disabilities and this process will bring that together, not just at DHS, but across state agencies in one package that shows our momentum and our vision as a state for what we would like to see for the disability community.

Below that

“Whereas, barriers to affording opportunities within the most integrated setting to persons with disabilities still exist in Minnesota”

This acknowledges that barriers do still exist. We've reduced some already, but there are still others that we need to move forward on.

Finally, the last half of the last Whereas says:

“...to help ensure that all Minnesotans have the opportunity, both now and in the future, to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life.”

I don't think any one of us would want anything less for ourselves or our loved ones so when you look at the surface of what's in the executive order, it's something that I think all Minnesotans support and agree with. It's getting to the end point is where the work is.

The departments that are listed in the Executive Order are included because based on our analysis they are the ones who are most involved in this Olmstead process, the departments that have more of an interface with persons with disabilities.

In closing – this process will be one that evolves over time. This Executive Order puts people in place who have the expertise, the authority, the experience and background to move us forward. We may need other resources and other folks may need to be at the table. That will be up to the people who are here in conjunction with the Lieutenant Governor to decide. We at DHS are willing to help in any way we can as support staff to facilitate whatever resources that you might need down the road.

A question was asked as to what the term disability means in regards to Olmstead. The response is that it covers all ages and all disabilities. There was a follow-up question as to whether Sex offenders are excluded. Clarification was provided as such. Individuals who have predatory sex offense histories are excluded from the protections of the ADA. However, if they are otherwise qualified as having a disability by the ADA they are afforded those protections.

Another question: Are all personality disorders not included or just psychopathic personality disorders? Following some discussion, it was agreed that the actual definition would be helpful for the group.

ACTION/DECISION: Lucinda Jesson offered to cover this at the next meeting. This will include the ADA definition and relevant Supreme Court decisions regarding the definition of disabilities.

TOPIC: REVIEW OF OLMSTEAD DECISION AND OLMSTEAD PLANNING COMMITTEE RECOMMENDATIONS

DISCUSSION:

Lucinda Jesson summarized how we got to this point. As talked about in the Cabinet meeting, Olmstead started with a case in Georgia that dealt with two women, one with developmental disabilities and one with mental illness. They were voluntarily hospitalized. And even though their treatment team said they were ready to move into the community, they weren't allowed to. A lawsuit followed and the result was the Olmstead decision. The Olmstead Decision said that public entities must provide community based services to this broad group of people with disabilities where the services are appropriate and where the affected people don't oppose them. This decision reflects a shift in judgments. Institutional placements are based upon

unwarranted assumptions that these people aren't able to participate in community life. It also reflects the assumption on the court's part that being confined to an institution really diminishes people's lives. The decision however is not just about where people live, but about where they work, where they are educated, how they are involved in their communities. It's about integration.

This really picked up momentum in 2009 when President Obama declared it the "Year of Community Living." This challenged every federal agency and the Department of Justice took it very seriously to enforce Olmstead and lawsuits started in some states.

In Minnesota, there was a class action lawsuit by residents of the METO program in Cambridge which ended in the Jensen Settlement Agreement. One of the things that DHS agreed to in the Settlement agreement was that the State would develop an Olmstead Plan. Even though DHS agreed to pull the committee together, it really is a State Plan that reaches across all agencies.

Some of the first steps have already been taken as laid out in the Settlement Agreement. The Olmstead Planning Committee was convened and met for about several months, but they didn't have time to reach a lot of the issues. The Committee did come up with some recommendations that were provided to Commissioner Jesson. They were put out for public comment and many comments were received. The Committee recommendations are being shared with you as a starting point. But we need to look at each of our agencies and find where the gaps are.

The Settlement Agreement set June 5th as the deadline for the Plan, but the parties are agreeing to extend the deadline to November 1st, so we really need to get started. The executive Order states we need to get public input so once the Plan is drafted it will go out for public hearings around the state so revisions can be made to the draft plan.

Discussion included that this is not just a DHS issue. It deals with housing, transportation and employment as well as health care and human rights issues.

We need to make sure the Plan has measurable goals, and a way to hold each other accountable. This needs to be a combined effort that will combine into one State Plan. The Plan is a living document and will change over time.

A question was asked to better understand what was the Committee's Plan. The Committee was formed as part of the Jensen Settlement agreement. The Committee provided the recommendations to the Commissioner. The Committee was not to develop or implement the Plan. The charge was to help begin to identify the barriers to full community integration.

A follow-up question asked for more information on the Jensen Settlement Agreement. The Jensen lawsuit was raised by plaintiffs who were residents at Cambridge who were subjected to the use of handcuffs and restraints. The Settlement Agreement involved payment of some money, agreed to court oversight, and agreed to develop an Olmstead Plan. DHS agrees that an Olmstead Plan is the right thing to do. And even though the deadline of the development of the Olmstead Plan is set by the Court, the Executive Order is what this group should focus on.

This is a Quality of life issue. It is part of our job to help improve the quality of life for everyone in the state. The recommendations are provided to use as a resource. The document is incomplete. Review them for what they are, but they are not all encompassing.

A question was asked as to whether data that was shared with the committee would be available. The response is that the data and information can be provided but it would help if you could identify the specific data or recommendation desired.

TOPIC: PROPOSED TIMELINE

DISCUSSION:

Gregory Gray reviewed the proposed timeline. This timeline is being provided as a possible timeline that the subcabinet might want to look at and consider. It is up to the Subcabinet to decide whether this is useful to you or not.

The timeline was briefly reviewed to highlight some of the items such as: use of outside consultant, communication plan, use of agency workgroups, engage key legislators, identify stakeholders, plan for public meetings, draft plan taken out to public, stakeholder groups, final plan due November 1.

Further discussion concluded that the Sub-Cabinet should meet monthly. A question was posed to the group on whether an outside consultant is needed. Several members discussed other projects that they had been involved with that used consultants in a productive way.

The Lieutenant Governor envisions that each agency would have their own workgroup and they would meet throughout the month. The workgroups would meet with the workgroups from other agencies as well. The Subcabinet would meet monthly to make sure are all on the same page. The Lieutenant Governor thinks we would need a consultant to write the plan, someone with technical experience and to help keep us focused.

Other discussion included the possibility of adding some questions to an assessment that is already planned by DHS with 18 focus groups around the state. Another idea was the use of Management Analysis if we needed someone as a facilitator. Other ideas included reaching out

to other states who have already done an Olmstead Plan in hopes we could benefit from hearing about their experiences.

Before a decision is made, it would be good to check to see what is available. DHS already applied for a federal grant, so that is a possibility. Members expressed an interest in being able to see what other States had done with their Olmstead Plans. These can be made available to the Sub-Cabinet.

A question was asked regarding what is the end product of this Sub-Cabinet. Is it the Plan or is it implementation of the plan? The answer is that it is the Plan. Implementation will be ongoing and may be changing over time as we adapt to whatever is going on at that time. We create a Plan for now that is flexible. There's no way we can reach all our goals in an instant, there would need to be a Plan over time to reach that goal.

ACTION/DECISION:

- Share other State's Olmstead Plans with Sub-Cabinet members.

TOPIC: DHS EFFORTS TO BEGIN PLANNING

DISCUSSION: Mike Tessneer reviewed an inventory/assessment template that DHS is using to date. Focus on the top headings of the chart to give an idea of how it can be used. Each agency within DHS used the table to indicate current efforts in place and proposed initiatives. They then indicated how responsive that current effort or initiative is to Olmstead (High-Medium-Low). The document from the Department of Justice can help determine the responsiveness to Olmstead and explains most integrated setting. The Scope column indicates whether it is of (Small-Medium-Large) scale.

The next step from there will be to look at where we may need to expand something if it is High in responsiveness to Olmstead but Small in scope for example. Or we might see that we have something that is Low in Responsiveness to Olmstead and is Large in Scope. That might indicate an area that should be looked at. This is an example of what DHS has done to kick things off. We will use this to help us prioritize our next steps. We believe that each agency needs to do some type of assessment as to how well your current efforts and initiatives are responsive to Olmstead.

Each agency would fill out only things that apply to their agency. If there is a recommendation listed that doesn't affect your agency then you wouldn't fill anything in. It is up to each agency to use the table as they see fit. This is just a template to provide you with an example of what DHS used. One of the reasons DHS went thru the recommendations one by one was that we

wanted to be responsive to the Committee and look at each recommendation and whether it was feasible.

Each agency needs to look at their programs and determine if it is accessible and available to everybody. We need to develop a list of questions to ask to help determine whether something is responsive to Olmstead. All agreed that the list of questions would be very helpful in completing the task.

If each agency has a team working on this they will need to be consistently trained or oriented on what they are assessing. We will need to get a list from each agency of who will be on their workgroup. An orientation meeting would need to be set up for these workgroup members so they can get the same information at the same time.

Several questions were raised about data and information needed. Greg encouraged members to talk individually with him about what type of information may be needed.

ACTION/DECISION:

- Mike Tessner will develop a list of questions/criteria to go out to people in 2 weeks.
- Each agency should provide a list of their agency workgroup members to DHS within 2 weeks.
- Contact Greg Gray if you have specific requests for data or other information.

TOPIC: ORGANIZATIONAL ISSUES AND NEXT STEPS

DISCUSSION:

Lieutenant Governor came back to an earlier discussion and stated she feels a facilitator is needed to help move the process along. All were in agreement that a consultant/facilitator is needed. The Sub-Cabinet should plan to meet monthly. If you can't make the meeting, a substitute should be sent.

ACTION/DECISION:

- A contact list needs to be developed.
- Contact Greg or Mike if you have questions regarding the assessment.

Meeting Minutes By: Rosalie Vollmar (DHS)