

# Minnesota Olmstead Planning Subcabinet - 2/20/14 Meeting Notes

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## Meeting Details

**Date:** February 20, 2014

**Start/End Time:** 10:30 a.m. – 12:30 p.m.

**Location:** State Office Building, 100 Rev Dr. Martin Luther King, Jr. Blvd, Room 10

**Chair:** Commissioner Lucinda Jesson on behalf of Lt. Governor Yvonne Prettner Solon

**Facilitator:** David Sherwood-Gabrielson, Interim Executive Director, Olmstead Implementation Office

**Subcabinet members (or alternates) in attendance:** Lucinda Jesson, Commissioner, Department of Human Services (DHS); Manny Munson-Regala, Assistant Commissioner from the Department of Health (MDH); Cynthia Bauerly, Deputy Commissioner, Department of Employment and Economic Development (DEED); Mary Tingerthall, Commissioner at Minnesota Housing Finance Agency; Roberta Opheim, Ombudsman for Mental Health and Developmental Disabilities (*ex officio*); Colleen Wieck, Executive Director, Governor's Council on Developmental Disabilities (*ex officio*); Sue Mulvihill, Deputy Commissioner, Department of Transportation; Robyn Widley, representing Jessie Montano, Department of Education (MDE); Kevin Lindsey, Commissioner, Department of Human Rights (MDHR)

**Others in attendance:** David Sherwood-Gabrielson, Interim Executive Director, Olmstead Implementation Office; David Thompson, Deputy Director, Olmstead Implementation Office; Kristin Jorenby, Dispute Resolution, Olmstead Implementation Office; Heidi Hamilton, Department of Human Services

## Welcome, introductions, and approval of agenda

Due to inclement weather, the Lieutenant Governor attended by phone and asked Commissioner Jesson to chair the meeting. The meeting was called to order by Commissioner Jesson. Subcabinet members introduced themselves. There were no additions to the agenda.

## Overview of Reports

David Sherwood-Gabrielson pointed out that there are four documents made available to the Subcabinet and at the meeting. These will be referred to and reviewed throughout today's meeting.

- 1) 12/31/13 - Report to the Court from Court Monitor, David Ferleger
- 2) 1/22/14 - Court Order from Judge Donovan Frank
- 3) 2/22/14 – Quality of Life Assessment Report to the Subcabinet
- 4) 2/20/14 - Olmstead Implementation Office Report to the Olmstead Sub-Cabinet

## Court Monitor Report and Court Order

The report dated 12/31/2013 is the report to the Court from the Court Monitor. This document is the Monitor's comments on the Plan. This report is being reviewed to include in the modifications to the Plan.

The Court order issued on 1/22/2014 provisionally accepted and approved the Plan, identifying that there are areas of the plan that need additional work or additional activity or input.

The Subcabinet had a few questions about the Court order. Discussion included the following:

- The 1/22/2014 Court order says that within 30 days of this order the Plaintiff's Class Counsel, the Executive Director of the Governor's Council on Developmental Disabilities and the Ombudsman for Mental Health and Developmental Disabilities may file any comments or objections to the Plan. The 30 days has not yet passed and comments have not been submitted yet. The comments will be submitted to the Judge directly, but copies will be shared with the parties. These comments should be paid attention to when looking at the next revisions to the Plan.
- The Court Order directed that the first report to the Court which is due April 22<sup>nd</sup> should not exceed 20 pages. It is also to include whether people's lives are improving, have people moved, what is happening with the waiting list and the results of any and all quality of life assessments.

## **Olmstead Plan Modification Process**

The Court Monitor's report to the Court and the subsequent Court order of January 22, 2014 set in motion a process for modifying or revising the Plan. There are two different ways revisions of the Plan may come about. One is at the request of the Court or Court Monitor and the other may come as an agency request. This might include a change in a federal law or something that is substantial and beyond our control.

Any revisions to the Plan would involve conversation with the Court and the Court monitor. This would also include conversations with people with disabilities, advocacy organizations and stakeholders, to comment and have input on what changes are taking place.

The proposed modification process and timeframe is included in the 2-20-14 Olmstead Implementation Office (OIO) Report to the Olmstead Sub-Cabinet.

Kristin Jorenby from the Olmstead Implementation Office was introduced to talk further about the modification process. The information on the modification process begins on page 4 of the February 20th OIO Report. A timeline was developed and is included on page 5. There are two processes going on simultaneously. There is a reporting timeline that's happening where the Olmstead Implementation Office reports bimonthly to the Sub-Cabinet. The Sub-Cabinet then reports to the Court Monitor and the parties.

The OIO has also been charged with modifying the plan both in accordance with the Court Monitor and Court's recommendations as well as items we found in the process of working the plan that maybe aren't going as we thought they were going to when we wrote it over the last year.

So starting February 5, the OIO sent all this information out to the agency leads and asked them to review the monitor's report and all the issues that came out of that report along with some proposed solutions to the issues.

Additionally, they were asked to review the plan and the action items they are currently working on to see if there are any issues that should be part of the modification process.

The Olmstead Implementation Office (OIO) would like to propose that the modification would follow a similar format as to how the plan was originally drafted. The agencies will continue to work on drafting modifications to the plan. Those drafts will then be presented to the Sub-Cabinet and the drafting team in mid-March. On or around March 17, the draft modifications of the Olmstead Plan will be posted to the Olmstead website for public review and comment.

This engages the community in providing feedback on the Plan and to identify areas that were potentially missed. On April 8<sup>th</sup>, the agencies will review the feedback received through the website and will incorporate them into revisions of those drafts.

Around mid-April, so April 15th, the OIO would like those drafts to go to not only the drafting team but also propose to the Sub-Cabinet that a group of representatives from all the Governor appointed disability councils be pulled together with the drafting team to make recommendations for modifications.

Then additionally that group of the drafting team and council representatives would host listening sessions across the state, similar to what took place last summer to engage folks in those revisions and see if we're where we need to be in the process.

A final draft will be due on June 2<sup>nd</sup> to go to the Subcabinet on June 9<sup>th</sup>. The Court Monitor will be sent the draft for his review on July 5<sup>th</sup>. The final Modifications to the Olmstead Plan is due to the Court on July 15th. This is a process that would be done twice a year.

Discussion and comments on this topic included the following:

- If in the course of the session something comes up that has impact on the Plan we will need to have an alternative process to address those issues.
- Propose extending the April 15 to May 15 window by a week to incorporate any decisions that come out of the end of the session.
- Once we've signed off on the process today, it would be good to set the dates soon for the listening sessions and the Sub-Cabinet meetings so they can be added to Subcabinet members schedules ASAP.
- The OIO will make sure that all the comments from October 22<sup>nd</sup> on are shared with the agency staff to incorporate into their modifications to the Plan.
- There was a meeting scheduled with mental health advocates and DHS today but it was postponed due to the weather. Dave Hartford is the lead on that so he should be contacted if people want to voice their concerns.

COMMISSIONER JESSON stated that it sounded like there was a consensus on suggestions about the legislative session and making sure we get input from the mental health group.

- Another suggestion was made that if Sub-Cabinet members and/or agency leads become aware of any legislation that may affect Olmstead, please notify the Implementation Office. David Sherwood-Gabrielson agreed to send out an email reminder to Sub-Cabinet members. This will help the OIO monitor what things are happening in the legislative session.
- With that lens of Olmstead in mind, the OIO might want to connect with some of the policy advisors in the Governor's office. The Lt. Governor offered to help the OIO with whatever they need on this matter.

## Olmstead Plan Current Status Update

David Thompson, Deputy Director of the Olmstead Implementation Office (OIO) was introduced to give a high level overview the 2-20-14 OIO Report to the Subcabinet. The OIO adopted the bimonthly reporting schedule that the Court Monitor recommended. The first report is actually due in April so this is a trial run on format and structure so that the Court Monitor and the Court get the information that they want.

A framework was developed for a repeatable review cycle. The agencies have identified a lead person to oversee work on their action items. The OIO meet with the agency leads about the plan implementation and any barriers or changes that are necessary.

Two weeks after that meeting, a report is due to the Olmstead Implementation Office. The report will provide the status of the action item and will include benchmarks to show incremental movement towards the completion of that goal or that action. These workplans will allow OIO to see where things are at and see if they are on track. The OIO will use that information to include in the report that was provided.

A quick walk through of the report was provided pointing out the Appendix and the spreadsheet tracking the action items. There are several items that the Olmstead Sub-Cabinet is listed as the responsible agency. For those items, the Olmstead Implementation Office is largely undertaking these efforts. The agency leads have already identified responsible individuals for all 2014 actions. Before the next Sub-Cabinet meeting, all 2015 action plans will have a responsible person's name assigned as well.

Under overarching strategic actions there is a deadline for agencies to submit proposals for the 2015 fiscal year to the Sub-Cabinet by February 25. Those should be coming to the Olmstead office. Mr. Thompson reviewed the rest of the document highlighting some of the content and pointing out areas where there are proposed modifications.

Discussion and comments regarding the status report included:

- There is currently no specific section on corrections or criminal justice system. Members of the OIO met with the Department of Corrections staff several weeks ago to address modifications to the plan. There are two main areas identified by the Court Monitor, corrections and mental health community. There will not be specific separate sections for corrections issues, but they will be integrated into the existing topic areas of the plan.

- A suggestion was made to include the time frame that the report covers. This will help convey that concerns raised are based on a concern at a slice of time and not representative of all the work that's going on.
- This first report covers all actions with due dates through April 1, 2014. That is why there isn't any language in here regarding the education and lifelong learning section because there weren't any actions with a due date within the time frame. It does not mean that things aren't being worked on.
- Subcabinet member expressed concern for modifications that are extending the completion dates. Does the OIO have advice on what the agencies need to focus on to make sure the goals are being met? OIO feels the sheer volume of actions over the next few years is overwhelming, the complexities involved in each one of those actions, and the resources in order to accomplish those are not necessarily in place right now, including the Olmstead Implementation Office. This report involves 16 action items. The next report adds 61 more, so the cumulative work that has to be managed over time is large. The agencies are making sincere efforts to work together. The OIO has been so appreciative of the cooperation and the collaboration that we've received.
- We have to keep in mind results, not activities. The report needs to be complete, accurate, and verifiable. The Court Monitor's report on the Plan listed his concerns about baselines, goals, and whether things are measurable. The advice received while writing the Plan was to write something that's legitimate and if we didn't know the information, gather it first. That's why the baseline items were inserted. And now we are being asked for the numbers and most of these do not have measurable goals, and that was written into the settlement agreement. We have to have a plan with measurable goals. These concerns should be addressed in modifications of the Plan.

## Quality of Life Assessment

David Thompson was next asked to talk to the Subcabinet about the Quality of Life Assessment. The Olmstead Implementation Office is looking for authorization to enter into a contract, an annual plan with the Center for Outcome Analysis. Jim Conroy from that organization was the measurement expert consulted with in the development of the Olmstead plan in Minnesota.

There is also a need to adjust the order of the activities regarding the Quality of life assessment because the way it is currently written, is in the wrong order. That will be one of the proposed modifications to the Plan.

Mr. Thompson also explained that he reviewed a number of quality of life assessment tools used locally, and found many have been done quite well. However, very few of them are across all disabilities and age groups. And few of them have been validated and found reliable.

So our intent is to build a tool that could be used for this purpose and maybe as well for all other organizations so that we have a standardized tool in Minnesota. The Center believes that quality of life issues are universal. And that they can apply across all disabilities and all age groups and that it's possible to develop such a tool.

The OIO recommendation is to enter into a contract for a very specific tool. The contract would include the tool itself, instructions for applying it, information on reliability and validity. Most of the center's work has already gone through a rigorous peer review and most of the elements will be lifted and placed into a similar tool so we have a strong background already.

Commissioner Jesson asked for and received a motion and the motion was seconded.

Discussion on the motion included:

- The budget for the annual plan is being paid through the Minnesota Housing and Finance.
- The authorization being voted on is for the initial \$5,000 we will get the survey development, instructions for administering the survey, documentation on validity and reliability studies, and sort of a sample size what you need and what level of confidence that will give you and an authorization to use the tool throughout the plan.
- The authorization says once we see this tool and agree that it will meet our needs and we review what Jim Conroy is proposing that we would then authorize that this will be the tool, not some other tool. But at this point, we would get this report, we would have our discussions about it, then we would need to develop a plan for who is going to actually conduct the survey over what period of time.
- Mr. Conroy believes that he can have the tool available to us by March 31.
- There was much discussion about possible next steps and projected costs. The Subcabinet will receive more information on this as the process continues.

Commissioner Jesson asked for a roll-call vote on the motion to approve the annual plan, to create this quality of life assessment. The vote was unanimous in favor of the motion. Motion passed.

## **Executive Director Search**

Commissioner Tingerthal was asked to report on the search process for the Executive Director of the Olmstead Implementation Office. Commissioner Tingerthal is co-chairing the search committee along with Sue Abderholden from NAMI. A search committee has been formed. There has been one organizational meeting that set the calendar and procedures. The job description was developed and circulated among the Subcabinet. The job opening was posted and is now closed. There are 31 candidates that have met the minimum qualifications. There will be follow up with all qualified candidates and ask them to submit a written submission on some provided questions. The responses will be received next week and will be compiled for the members of the search committee.

The search committee is meeting next week to evaluate the submissions and narrow down the list to a list of people that we will interview. Interviews will be scheduled on the tenth and 14th of March. Hopefully we will have some great candidates to pick from.

## **25% Concentration Issue**

Heidi Hamilton from Department of Human Services provided an update to the Subcabinet on the Requirement of 2013 Laws of Minnesota, Chapter 108, Article 7, Section 53. There were numerous comments raised during the listening sessions regarding the 25% concentration of people with disabilities in certain residential settings. Staff reported this would be an issue taken up in the 2014 legislative session. An update will be provided at a later date.

## **Meeting Adjournment**

Meeting was adjourned at 12:30 pm.