



U.S. Department of Justice

Civil Rights Division

SYC:BOT:MM:KKD:VHD:RAC:RMJ:JVY:KC
DJ 168-74-39

*Special Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

August 20, 2009

Via U.S. Mail

Mr. Bob Kafka
Organizer
ADAPT of Texas
1640 E. 2nd St. Ste. 100
Austin, Texas 78702

Mr. Mike Bright
Executive Director
The Arc of Texas
8001 Centre Park Drive
Austin, Texas 78754

Mr. Michael Benz
Director Center on Disability and Development
Texas A&M University Dept. of Educational Psychology
4225 Texas A&M University
College Station, Texas 77843-4225

Mr. Dennis Borel
Executive Director
Coalition of Texans with Disabilities
16 W. 12th Street Ste. 405
Austin, Texas 78701

Mr. Jeff Garrison-Tate
Senior Legislative Advocate
Community Now!
P.O. Box 1548
San Marcos, Texas 78667-1548

Mr. Gerard Jimenez
Legislative Affairs
Down Syndrome
Association of Central Texas
3710 Cedar St., Box 3
Austin, Texas 78705

Ms. Robin Peyson
Executive Director
National Alliance on Mental Illness
2107 Wilson Blvd., Suite 300
Arlington, VA 22201-3042

Mr. Marshall West
President
Texas Advocates
204 N. Shady Shores Rd, Apt. 4-B
Lake Dallas, Texas 75065

Ms. Penny Seay
Executive Director
Texas Center for Disability Studies
The University of Texas at Austin, L4000J. J. Pickle Research
Campus
10100 Burnet Road
The Commons Center, Bldg. 137, Suite 1.154
Austin, Texas 78758-4445

Ms. Jean Langendorf
Executive Director
United Cerebral Palsy of Texas
1016 La Poseda
Suite 145
Austin, Texas 78752

Re: U.S. v. Texas (A09 CA 490 SS)

Dear Mr. Kafka, Mr. Bright, Mr. Benz, Mr. Borel, Mr. Garrison-Tate, Mr. Jimenez, Ms. Peyson, Mr. West, Ms. Seay, and Ms. Langendorf:

Thank you for your letter of July 15, 2009, and Ms. Langendorf's letter of August 10, 2009,¹ regarding the Department of Justice's ("DOJ's") settlement agreement with the State of Texas ("Settlement Agreement"). As you know, the Settlement Agreement, filed in United States v. Texas, (W.D. Tex. No. A09 CA 490 SS), sets out remedial measures to ensure that conditions of care and treatment in Texas' 13 State facilities

¹ Although Ms. Langendorf did not sign the letter dated July 15, 2009, her letter of August 10, 2009 expressly endorses it.

for persons with developmental disabilities² ("Facilities") meet the constitutional and statutory rights of the individuals living in those facilities. These measures include ensuring that each facility resident is served in the most integrated setting pursuant to the Americans with Disabilities Act ("ADA") and the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999).

In your letters, you state that you fully support the goal of the Settlement Agreement to rectify the problems facing the Facilities, although you express the view that the Settlement Agreement may not fully match this goal. In particular, you express concern regarding aspects of the Agreement's community integration provisions. In your letter of July 15, 2009, you attach a June 16, 2009 letter from Advocacy, Inc. to the State setting out more specific comments on the Agreement. Finally, you make clear that you wish to have an ongoing role in the Agreement's implementation.

Thank you for providing us with your input. We recognize that you share our goal of protecting the civil rights of Facility residents, particularly the right of these individuals to live in the most integrated setting appropriate to their needs. We have reviewed the specific comments that Advocacy, Inc. made regarding the Agreement, and we have provided Advocacy, Inc. with a comprehensive response. A copy of our response, set forth in a July 22, 2009 letter to Advocacy, Inc., is attached for your reference.

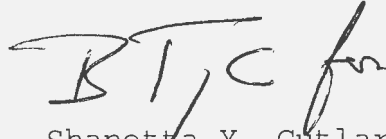
Our objective has been, and will remain, to ensure that the State upholds the full panoply of federal civil rights of the individuals residing in those Facilities, including but not limited to the rights to community integration afforded under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12132 et seq. and framed by the Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). The State has made a clear commitment to uphold the community integration rights of the Facilities' residents, and we intend to ensure that the State's commitment is fully honored.

We recognize that you will have an ongoing voice regarding the Agreement's implementation, and we welcome that input. The State's compliance with the Agreement will be assessed by

² The State recently changed the title of these institutions from "State Schools" to "State Supported Living Centers."

independent monitors. The independent monitors will issue reports that will be available to you. We would be pleased to discuss with you a mechanism through which you may provide substantive input into the monitoring process. To that end, please do not hesitate to contact Special Counsel Benjamin Tayloe, at (202) 514-8103 or Marina Mazor at (202) 305-3347.

Sincerely,

A handwritten signature in black ink, appearing to read "BT/C for". The signature is stylized and written in a cursive-like font.

Shanetta Y. Cutlar
Chief
Special Litigation Section

CC: David S. Morales, Esq.
Deputy Attorney General for Civil Litigation
Office of the Attorney General
State of Texas