



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, DC 20530

CRIPA Investigation



MR-CA-002-002

The Honorable Pete Wilson
Governor
State of California
State Capitol
Sacramento, California 94268

March 6, 1995

Re: Agnews Developmental Center
Sonoma Developmental Center

Dear Governor Wilson:

I am writing in reference to this Department's ongoing investigations of the Agnews Developmental Center ("ADC") and the Sonoma Developmental Center ("SDC") being conducted pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq. By letters dated December 3, 1992 and May 6, 1994, we informed you that conditions at ADC and SDC, respectively, violated the constitutional rights of its residents. The SDC letter also informed you that the Center was failing to provide special education services in accordance with the Individuals with Disabilities Education Act ("IDEA") 20 U.S.C. § 1400 et seq. Copies of both findings letters are attached and incorporated by reference.

In September 1994, Department of Justice attorneys met with State representatives to discuss resolving these investigations through the entry of judicially-enforceable settlement agreements. By letter dated January 17, 1995, counsel for the State of California formally rejected any such resolutions.

The purpose of this letter is to apprise you that, upon further review of these matters, we have determined that additional federal statutory violations exist at both facilities. Specifically, residents' rights pursuant to the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101 et seq., Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. § 794 et seq., and the substantive provisions of Title XIX of the Social Security Act ("Medicaid"), 42 U.S.C. § 1396 et seq., are being violated by various acts, practices, and conditions at ADC and SDC. Our review also indicates that the rights of the residents guaranteed by California state law are also being

violated at both facilities. See Welfare and Institutions Code § 4500 et seq. ("The Lanterman Act").

ADC and SDC fail to provide environments which meet the needs of residents, promote their growth, development, and social well-being and permit contact with mainstream social institutions. By design and function, residents are separated from society. Where residents can benefit from placement in community based programs and facilities, and especially where professionals have determined that such placement is appropriate, this unnecessary segregation of the developmentally disabled violates the ADA and Section 504. Such placement also violates the Lanterman Act's mandate that services to persons with developmental disabilities be provided in natural community settings.

The several areas identified during our investigation of ADC and SDC as constituting constitutional violations also are substantive violations of the Social Security Act and regulations implementing the Medicaid program. Deficiencies in the areas of training and medical care are the clearest examples.

In order to remedy the previously identified constitutional and federal statutory violations at ADC and SDC, and the substantive violations of rights granted by state law under the Lanterman Act, the State must implement the following remedies as well as those set forth in the previous findings letters:

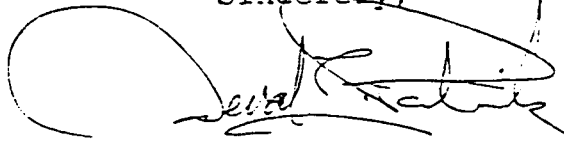
- 1) Provide for each resident a professionally designed and implemented training program that will teach new skills, foster growth and development, and permit each resident to exercise that degree of functional independence of which the resident is capable. Such programs must be designed and implemented by sufficient numbers of appropriately qualified and trained staff, including both direct care and professional staff. Immediate attention should be given to those residents exhibiting the most dangerous behaviors and behaviors presently being managed by the use of restrictive measures, including physical and chemical restraints.

- 2) State officials need to expand community-based programs to meet the individualized needs of as many ADC and SDC residents who should be served in community programs. All residents should be evaluated for community placement by an inter-disciplinary team, including appropriately trained professionals who have experience in operating community programs. No resident should be precluded from community placement based on their degree of disability or other handicapping condition. Priority for placement in community-based programs should be given to children currently residing in ADC and SDC. In addition, both ADC and SDC must maintain their moratorium on admissions of children.

3) State officials need to develop an overall plan to eliminate all of the deficiencies identified in the course of this investigation and communicated to such officials, including necessary steps to achieve substantive compliance with relevant laws.

In closing, I can only express my hope that we can work together to resolve these matters to the benefit of the developmentally disabled and mentally retarded residents of the State of California.

Sincerely,



Deval L. Patrick
Assistant Attorney General
Civil Rights Division

Enclosures

cc: Mr. Dennis G. Amundson
Director
Department of Developmental Services

The Honorable Daniel E. Lungren
Attorney General
State of California

Mr. Santi J. Rogers
Executive Director
Agnews Developmental Center

Mr. Timothy Meeker
Executive Director
Sonoma Developmental Center

Michael J. Yamaguchi, Esquire
United States Attorney
Northern District of California