



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

19 MAR 1986

Honorable Victor Atiyeh
Governor
State Capitol Building
Salem, Oregon 97310

U.S. v. Oregon



MR-OR-001-002

Re: CRIPA Investigation of Fairview Training Center,
Salem, Oregon

Dear Governor Atiyeh:

In my letter to you of March 15, 1985, I set forth the findings of our Fairview Training Center investigation pursuant to the Civil Rights of Institutionalized Persons Act (Act). As required by § 1997b of the Act, that letter described the unconstitutional conditions and deprivations of federal statutory rights at Fairview and the minimum measures we believe are needed to remedy those conditions and deprivations.

Your March 25, 1985, response to our findings letter asserted that substantial improvements had been made at Fairview. Based upon this representation, we assessed current conditions at the facility. This evaluation consisted of comprehensive tours by two independent experts and analysis of extensive documentation. The documentation included: surveys of Fairview conducted by the Health Care Financing Administration of the United States Department of Health and Human Services and Fairview's plans of correction and monthly progress reports; the 1985 report by the Oregon Department of Education on special education services at Fairview; a variety of Fairview's standard policies and procedures; information related to Fairview's staffing patterns; minutes and reports from various Fairview Committees and Departments; information pertaining to residents on various drugs; State Training Center Review Board minutes; police and abuse investigation reports; death records; incident/injury reports; medication and treatment cottage logs; medical progress sheets; monthly restraint reports; and a sampling of residents' records.

Based upon this extensive evaluation of Fairview it is clear that although some improvements have been made, the pattern of unconstitutional conditions and federal statutory violations identified in our March 15, 1985, findings letter continues in significant measure. The violations include:

1. Lack of minimally adequate training for those residents in need of protection from bodily injury to self or others or both.
2. Inadequate medical care.
3. Inadequate numbers of and insufficiently trained staff to render professional judgments regarding necessary care, medical treatment, and training, and to implement such professional judgments.
4. Failure to protect all residents from unreasonable risks of harm to their personal safety by the conduct of staff or other residents.
5. Serious health hazards due to intolerable sanitation and unsafe environmental conditions.
6. Insufficient and inadequate recordkeeping and administrative practices.
7. Failure to provide residents with a free, appropriate public education consistent with part B of the Education of All Handicapped Children Act, 20 U.S.C. §§ 1401-1420.

These deprivations of Fairview residents' constitutional and federal statutory rights remain despite our encouragement to correct them, including repeated consultations with the State of Oregon regarding financial, technical or other assistance which may be available to assist with remediation. Inasmuch as the State has had a reasonable opportunity to correct the deficiencies voluntarily and has failed to do so, it is necessary at this juncture to ensure that the State will correct the cited deficiencies. It remains our preference to accomplish this by entering into a legally binding and judicially enforceable consent decree with the State of Oregon. We believe that the interests of all involved are best served by this method of resolution rather than by engaging in protracted litigation.

Our attorneys will be contacting Attorney General Frohnmayer's office within the next week to begin the negotiation process. We look forward to your cooperation in resolving this matter through negotiation and conciliation to arrive at a fair and just settlement of this matter.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: David Frohnmayer, Esquire
Attorney General

Leo T. Hegstrom, Director
Department of Human Resources

Verne Duncan, Ed.D.
State Superintendent of Public
Instruction

Jerry McGee, Ed.D.
Superintendent
Fairview Training Center

Charles H. Turner, Esquire
United States Attorney