

U.S. Department of Justice

Civil Rights Division

U.S. v. Louisiana



MR-LA-004-003

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 22 1986

Honorable Edwin Edwards
Governor of Louisiana
State Capitol Building
Baton Rouge, Louisiana 70802

Re: Findings of investigation, Metropolitan
Developmental Center, 42 U.S.C. §1997 (1982)

Dear Governor Edwards:

As you know, on November 30, 1984, we notified you that we were commencing an investigation of the Belle Chasse State School under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 (1982). On January 16, 1986, we informed you of the findings of our investigation. We are now writing to update those findings and to propose an equitable settlement of our claims.

Our original letter of findings discussed particular problems within three general areas of concern: medication practices, recordkeeping, and staffing. The letter moreover listed the minimum remedial measures that, in our view, were necessary to correct the facility's deficiencies. In accordance with statutory procedures, on April 22, 1986 our attorneys met with officials of the Louisiana Department of Health and Human Resources to discuss settling this matter by way of a consent decree. The state officials refused our offer of settlement, but stated that they would welcome our reevaluation of Belle Chasse -- renamed the Metropolitan Developmental Center (MDC) -- under current circumstances. We thereafter undertook to reassess conditions of confinement at MDC.

In essence, the new investigatory tour substantiated the findings of our original investigatory efforts. Based on the findings of both phases of our investigation, we believe that conditions at MDC deprive residents of their constitutional rights. See Youngberg v. Romeo, 457 U.S. 307, 324 (1982). Our findings and conclusions from the most recent investigatory tour are summarized below.

1. Medication Practices

Many of the medication practices currently employed at MDC represent significant departures from accepted medical standards, thereby exposing the residents to unacceptable risks of harm.

In general, the most harmful medication practices concern the inappropriate use of psychotropic drugs. A large number of MDC residents currently receive at least one psychotropic drug.

Approximately one-half of all MDC residents have been diagnosed as having both mental retardation and a psychiatric disorder. The vast majority of such "dually diagnosed" residents are receiving antipsychotic medication. Of those residents receiving antipsychotic medication, a full 45% have been given a particular diagnosis not recognized in the Diagnostic And Statistical Manual of Mental Disorders, Third Edition (DSM-III). Some of those residents, as well as numerous others who have been assigned imprecise diagnoses, were receiving high doses of antipsychotic medication without the proper clinical and diagnostic justification. Indeed, our consultant concluded that MDC employs antipsychotic medication primarily as a means of controlling behavior without proper justification. The overuse or misuse of medication in such a manner constitutes a serious departure from professional standards.

Our consultant furthermore determined that the overmedication of MDC residents was causing harmful consequences. Numerous residents demonstrated serious neurological side effects from sustained exposure to high doses of antipsychotic drugs. Several other residents were receiving polypharmacy drug regimens that were potentially harmful. Accordingly, improper medication practices at MDC continue to subject the residents to unreasonable risks of harm.

2. Drug Monitoring and Screening for Side Effects

An MDC draft policy permits the use of some FDA-approved drugs in a manner not indicated on the manufacturer's label. Nonetheless, our consultant determined that MDC does not have adequate operational guidelines governing the monitoring of patients who are prescribed either a particular cardiovascular agent or a particular anticonvulsant agent to control aggression. In the absence of adequate protocols governing the unlabelled use of the drugs, patients may incur dangerous side effects, such as heart failure.

The detection and management of neuroleptic-induced, involuntary movement disorders at MDC remains dangerously inadequate. Antipsychotic medication may induce a wide range of hazardous neurological disorders such as tardive dyskinesia, withdrawal dyskinesia, acute dyskinesia, Parkinsonian symptoms, and akathisia. At the time of our most recent visit, MDC had not officially implemented formal screening for tardive dyskinesia and other abnormal movement disorders. Our consultant detected

several residents who displayed symptoms of Parkinsonism or tardive dyskinesia that inhibited their ability to move freely and voluntarily. Overall, our consultant concluded that the present system of monitoring patients on antipsychotic medication has enabled numerous neurological side effects to be overlooked, thereby resulting in substandard care for the residents. In addition, an MDC draft policy mandates a 14-day drug-free trial for residents once a year. For residents receiving high dosages of psychotropic agents, a drug-free trial can cause anticholinergic withdrawal reactions and acute behavioral deterioration.

The medical monitoring of drug use at MDC is extremely substandard, and exposes residents receiving drug therapy to serious risks of harm. An MDC policy requires semi-annual blood counts and liver function tests for residents receiving high doses of certain drugs. Our consultant criticized the MDC policy that requires liver tests for only those patients who receive high doses of drugs, noting that the risk that a patient will acquire a particularly dangerous drug-induced side effect does not depend on the dosage level. Moreover, the consultant expressed concern that, with respect to two particular psychotropic drugs, MDC's own maximum daily dosage levels would have to be exceeded before the blood and liver tests were performed. Indeed, our consultant discovered that numerous residents were receiving drug therapy despite the absence of the necessary preliminary medical tests. This has resulted in the overmedication of some residents, since the drug therapy has been administered without the necessary therapeutic rationale. Still other patients have been exposed to an extreme risk of drug-induced toxic poisoning by the absence of preliminary and periodic drug-level testing. One patient was not tested for drug-induced toxicity until almost two weeks of drug therapy had been administered. Another patient's chart revealed that his drug therapy had produced a toxicity level that exceeded the point at which the patient may lapse into a coma and was approaching the level at which death may result from cardiac arrhythmia, convulsions, and nervous-system disorders. Accordingly, our consultant's overall conclusion was that the inadequate medical monitoring of drug therapy was creating an unreasonable risk of harm to MDC residents.

3. Staffing

Our consulting psychiatrist determined that the level of psychiatric staffing at MDC remains inadequate to address the psychiatric needs of the MDC residents. Nearly one-half of all MDC residents have been diagnosed as having psychiatric disorders, and the psychiatrists simply do not spend enough time at MDC examining these patients. The majority of psychiatric patients have received diagnoses that either do not comport with contemporary

diagnostic nomenclature or are otherwise meaningless in clinical practice. Furthermore, psychiatric reviews of patients do not take place at reasonable intervals. Due to the very limited input of the consulting psychiatrists, many psychiatric services are performed by staff physicians, who lack the necessary qualifications to deliver proper psychiatric care. As a consequence, the psychiatric services provided MDC residents do not ensure treatment efficacy and safe medical care, thereby exposing the residents to unreasonable risks of serious harm.

4. Recordkeeping

Recordkeeping remains inadequate to ensure proper medical care and treatment. Progress notes, particularly those of the attending psychiatrists, are not maintained at acceptable intervals. In general, psychiatric and staff physician progress notes have been inadequate in documenting target symptoms, diagnostic formulations, treatment rationales, and drug side effects. In the absence of such documentation, judgments with respect to medical care, psychiatric treatment, and training cannot be made on a professional basis. Accordingly, inadequate recordkeeping continues to cause a significant risk of harm to MDC residents.

5. Remedial Measures

On the basis of our two separate investigatory tours, we have concluded that the residents of MDC are subject to flagrant or egregious conditions that violate their constitutional rights. We believe that a continuing pattern of these conditions has existed at least since 1982. To rectify the deficiencies at MDC and to assure that constitutionally adequate conditions are maintained thereafter, we once again propose to enter into a legally binding and judically enforceable agreement with the State of Louisiana. The following are the minimum measures which, in our view, are necessary to remedy the deficiencies discussed above:

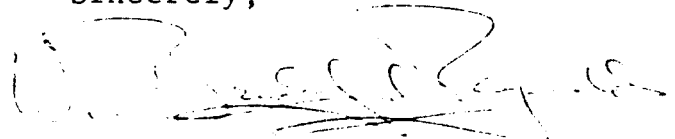
1. MDC must increase the level of staffing with respect to psychiatric services.
2. Medication practices must be modified, as necessary, to ensure that they comport with accepted professional medical standards.
3. Drug monitoring and screening for side effects must be implemented or modified, as necessary, to ensure that they comport with accepted medical standards.
4. MDC must ensure, in accordance with professional judgment, that residents are not subjected to undue bodily restraint.

5. Recordkeeping must be improved and a quality assurance system must be implemented in order to ensure that the residents' rights to personal safety and freedom from undue bodily restraint are adequately protected.

As we indicated in our previous letter of findings, we seek to resolve this matter in the spirit of cooperation intended by the Civil Rights of Institutionalized Persons Act. In the light of the seriousness of our findings and the extended duration of our statutory investigation, we have prepared the attached draft of a judicially enforceable consent decree. We believe that the proposed decree, once implemented, would fairly and adequately remedy the constitutional violations that our investigation has revealed. Accordingly, we are offering the decree for the State's approval at this time.

As we noted in our previous letter of findings, we are prepared to provide you with our consultant's report or other technical assistance. Our attorneys will contact attorneys for the Louisiana Department of Health and Human Resources to discuss these matters in greater detail.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm. Bradford Reynolds", is written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division