

1 UNITED STATES DISTRICT COURT

2 FOR THE

3 DISTRICT OF ARIZONA

4 NATHALIA GRISWOLD, et al.,)

NO. CIV 77-144 PHX CAM

5 Plaintiffs,)

STIPULATION

6 vs.)

7 JIM RILEY, et al.,)

8 Defendants.)

9
10 The Parties in this matter, represented by the Undersigned
11 Counsel, do hereby stipulate to the following substance and pro-
12 cedures in attempting to reach agreement on a proposed consent
13 decree to be presented to the Court.

14 The Parties will utilize the Pretrial Order in developing
15 the consent decree. The facts agreed upon by the Parties in the
16 Pretrial Order will be stated in the consent decree. Facts con-
17 tested are subject to negotiations. The defendants and plaintiffs
18 will meet to agree on the status of the facts and on plans relating
19 to the facts. The following is the schedule for reaching agreement
20 in each area.

21 1. Most residents of the Arizona Training Program at
22 Coolidge lack the capacity to request release (Pretrial Order III
23 A).

24 The factual statements contained in the Pretrial Order
25 III A will be included in the consent decree. The number of resi-
26 dents adjudicated incapacitated as specified in III A 1 will be
27 updated.

28 2. Most residents of the Arizona Training Program at
29 Coolidge are restricted in their choice of living arrangements
30 (Pretrial Order III B).

31 The factual statements contained in the Pretrial Order
32 III B will be included in the consent decree. III B 7 will be

1 modified insofar as III G, which deals with the number of less re-
2 strictive environments, contains statements of existing alternatives
3 and planned alternatives.

4 3. The physical structures, i.e. buildings, at the
5 Training Program at Coolidge have a significant effect on the kinds
6 and levels of services which can be and are provided to the resi-
7 dents. (Pretrial Order III C).

8 (a) The factual statements contained in
9 the Pretrial Order III C will be included
10 in the consent decree.

11 (b) Defendants will prepare a status re-
12 port on the conditions in each dwelling
13 unit at ATP-C and on the adequacy of the
14 habilitation facilities by August 14, 1978.

15 (c) The Parties will meet to discuss the
16 above reports and negotiate a tentative
17 draft in the week of August 21, 1978.

18 (d) The Parties will review the tentative
19 drafts and will meet in the week of
20 September 18, 1978 to negotiate a final
21 draft. If necessary, the Parties will
22 schedule weekly meetings until a draft is
23 agreed upon.

24 4. Every resident at ATP-C could benefit from services
25 provided in a less restrictive environment than that found at
26 ATP-C (Pretrial Order III G).

27 (a) The factual statements contained in
28 the Pretrial Order III G will be included
29 in the consent decree.

30 (b) The defendants will prepare a status
31 report and a report on all plans regarding
32 the movement of ATP-C residents into less

1 restrictive environments, including a re-
2 port on each factual statement contained
3 in the Pretrial Order III G, by August 21,
4 1978.

5 (c) The Parties will meet in the week of
6 September 18, 1978, to review the reports
7 identified in subpart (b) and negotiate a
8 tentative draft.

9 (d) The Parties will review the tentative
10 draft and will meet in the week of
11 October 16, 1978, to negotiate a final
12 draft. If a final draft cannot then be
13 written, the parties will schedule weekly
14 meetings until agreement is reached.

15 5. Physical and chemical restraints are used to control
16 the behavior of some residents (Pretrial Order III F).

17 (a) The factual statements contained in
18 the Pretrial Order III F will be included
19 in the consent decree.

20 (b) The defendants will prepare a status
21 report and a report on all plans regarding
22 the use of aversive stimuli, including
23 physical and chemical restraints. The plans
24 will include information on staff training
25 in behavior management. The status report
26 will include draft regulations developed
27 pursuant to A.R.S. §36-561.

28 (c) Defendant Lensink will present draft
29 regulations implementing A.R.S. §36-561 to
30 defendants' counsel by October 13, 1978.
31 Counsel will review and comment by November 3,
32 1978. The policy panel will review

1 regulations by December 1, and will take
2 final action by December 11, 1978. The
3 Public Hearing will be scheduled on or
4 before December 29, 1978. The final regu-
5 lations will be prepared by January 13,
6 1979. The Attorney General will complete
7 its review function by February 10, 1979.
8 The regulations will be submitted to the
9 Secretary of State by February 15, 1979.

10 (d) In the week of October 16, 1978, the
11 Parties will meet to review the reports
12 identified in subpart (b).

13 (e) The Parties will meet in the week of
14 November 20, 1978, to negotiate a final
15 draft and will meet each week thereafter
16 until a final draft has been negotiated.
17 Notwithstanding the negotiation of a
18 final draft, the proposed regulations
19 implementing A.R.S. §36-561 will proceed
20 through the regulation process.

21 6. The habilitation programs at ATP-C are inadequate to
22 meet the recognized needs of the residents (Pretrial Order III E).

23 (a) The factual statements contained in
24 the Pretrial Order III E will be included
25 in the consent decree.

26 (b) The defendants will prepare a status
27 report and a report detailing all plans
28 regarding habilitation services offered
29 to the residents of ATP-C, by November 17,
30 1978. In the week of November 20, the
31 Parties will meet to review these reports
32 and negotiate a tentative draft. Included

1 in the report will be proposed regulations
2 necessary in implementing §36-551.01(J), (K),
3 (L), (M), and (P); §36-560(G), (H) and (I),
4 §36-563, §36-565 and §36-551.01 (C), (O),
5 and (Q). The reports will include a state-
6 ment of standards utilized pursuant to
7 A.R.S. §36-557 (E)(1) and standards utilized
8 by the Department in administering state
9 operated programs.

10 (c) Defendant Lensink will present the
11 draft regulations cited in subpart (b) to
12 defendants' counsel by October 2, 1978.
13 Defendants' counsel will complete their
14 review by October 16, 1978. The policy
15 panel will receive the proposed regulations
16 by October 16, 1978 and complete its review
17 by November 3, 1978. A Public Hearing on
18 the regulations will be scheduled no later
19 than December 1, 1978. The defendants will
20 forward the final regulations to the Attorney
21 General's office by December 29, 1978. The
22 Attorney General will review the regulations
23 by January 26, 1979 and the regulations
24 will be filed with the Secretary of State by
25 January 31, 1979.

26 (d) The Parties will review the tentative
27 draft of the reports cited in subpart (b)
28 and will meet in the week of December 4,
29 1978 to negotiate a final draft. The Parties
30 will meet weekly thereafter until agreement
31 is reached. Notwithstanding the Parties
32 -----

1 reaching agreement, the regulatory process
2 outlined in subpart (c) will be maintained.

3 7. There is insufficient staff to provide a level of
4 habilitation which meets the recognized needs of the residents.
5 There are insufficient staff to protect residents from physical
6 injury (Pretrial Order III D).

7 (a) The factual statements contained in
8 the Pretrial Order III D will be included
9 in the consent decree.

10 (b) The defendants will prepare by
11 December 11, 1978, a status report on the
12 staffing ratios or patterns and report on
13 all plans regarding staff ratios and patterns.
14 The report will include information on
15 all facts as stated in the Pretrial Order
16 III D.

17 (c) The Parties will meet in the week of
18 December 18, 1978, to review and negotiate
19 a tentative draft.

20 (d) The Parties will review the tentative
21 draft and in the week of January 15, 1979,
22 will meet to prepare a final draft. The
23 Parties will meet each week thereafter
24 until agreement is reached.

25 8. Named plaintiffs (Pretrial Order III I, J, K, L, M,
26 and N).

27 (a) The facts agreed upon in the Pretrial
28 Order III I, J, K, L, M, and N will be con-
29 tained in the consent decree.

30 (b) Defendants will report to plaintiffs
31 by August 15, 1978, the current status of
32 the named plaintiffs with respect to each

1 agreed upon fact as stated in the Pretrial
2 Order and will report on all individual
3 planning occurring.

4 (c) Upon review of the reports from de-
5 fendants identified in subpart (b), plaintiffs
6 will determine the need to request a review
7 of placement. Any request for such review
8 will be made by plaintiffs by September 1,
9 1978. The review will be completed by
10 October 15, 1978, with the case manager
11 responsible for timelining such review.

12 (d) The Parties will meet in the week of
13 November 20, 1978, to negotiate a final
14 draft regarding the named plaintiffs.

15 9. Monitoring

16 (a) Human Rights Committee

17 (i) Plaintiffs will present a draft
18 of a Human Rights Committee to
19 Defendants on or before June 26,
20 1978. The draft will be sub-
21 stantially based on the draft
22 contained in plaintiffs Inter-
23 rogatory Response 6b.

24 (ii) Plaintiffs and defendants will
25 review the draft in a meeting in
26 the week of July 17, 1978, and
27 negotiate a tentative draft.

28 (iii) The Parties will review the
29 tentative draft and will negotiate
30 a final draft in a meeting held
31 in the week of August 21. If
32 necessary, the parties will meet

1 each week thereafter until an
2 agreement is reached.

3 (b) AARC Monitoring

4 (i) The Arizona Association for
5 Retarded Citizens will present
6 to the Parties its program for
7 monitoring the residences in
8 which the plaintiff class
9 (residents of ATP-C as of
10 March 1, 1977) now live by
11 September 29, 1978.

12 (ii) In the week of October 2, 1978,
13 the Parties will review the pro-
14 gram and negotiate revisions if
15 needed.

16 (iii) The AARC will receive any revi-
17 sions by October 13, 1978, and
18 will respond in writing by
19 November 17, 1978.

20 (iv) In a meeting in the week of
21 November 20, 1978, the Parties
22 and the AARC will negotiate a
23 final AARC program. If necessary,
24 the Parties and the AARC will
25 meet each subsequent week until
26 an agreement is reached.

27 (v) Upon reaching a final agreement
28 the defendants will recognize
29 the AARC as an ongoing advocacy
30 group pursuant to §36-557(F) (5)
31 and will provide access to ATP-C
32

1 to the AARC monitoring committee
2 for monitoring purposes.

3 (c) Investigating Neglect and Abuse

4 (i) The defendants will submit to
5 plaintiffs, by October 2, 1978,
6 all policies regarding reporting
7 and investigating of neglect and
8 abuse involving residents of ATP-C.
9 The policies will include provi-
10 sion for review of incidents of
11 neglect and abuse by the Human
12 Rights Committee.

13 10. Residents transferred or committed to State Hospital.

14 (a) By August 15, 1978, defendants will
15 report to plaintiffs the names of ATP-C
16 residents who have been transferred or
17 committed to the Arizona State Hospital
18 since March 1, 1977. The report shall
19 state the current placement of such resi-
20 dents. Further, the report shall state
21 whether such residents remain admitted to
22 ATP-C.

23 (b) In a meeting of the week of September 18,
24 1978, the Parties will determine the
25 appropriate schedule, if any, for resolving
26 issues involving the residents transferred
27 or committed to the State Hospital. Issues
28 discussed will include responsibilities of
29 the Department of Economic Security and
30 Department of Health Services under A.R.S.
31 §§36-203 and 36-554.02.
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11. Law

(a) The Parties will meet in the week of December 18, 1978, to discuss all references to constitutional, statutory, and regulatory provisions to be contained in the consent decree. At the meeting, the Parties will prepare a tentative draft of the law and/or rights of residents and responsibilities of defendants to be referenced in the consent decree.

(b) The Parties will review the tentative draft and meet in the week of January 15, 1979, to negotiate a final draft. If necessary, the Parties will meet each subsequent week until agreement is reached.

12. In the week of January 15, 1979, the Parties will meet to review the final drafts in all areas and to negotiate a stipulation. If necessary, the parties will meet each week thereafter until a stipulation or impasse is reached.

13. Procedures for Meeting

The Parties will negotiate through respective counsel all meeting dates. Meetings will be scheduled for one-half day, 8:00 a.m. to 12:00 p.m. or 1:00 p.m. to 5:00 p.m. unless Parties agree otherwise. Should a meeting not be feasible during regular work hours, four-hour meetings will be scheduled in the evenings or on weekends in order to maintain the schedule.

14. Should any counsel believe the foregoing process or substance is inadequate or is not being observed, he shall notify the opposing counsel in writing and ask for a meeting to discuss the problem. The meeting will be held within one week of written request. Should the meeting fail to resolve the problem, a pre-trial conference may be requested. During any such period, both

1 Parties will maintain good faith efforts to follow the schedule
2 until a pretrial conference has been concluded.

3 RESPECTFULLY SUBMITTED this 30 day of June, 1978.
4

5 JOHN A. LaSOTA, JR.
6 Attorney General

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CITIZENS

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