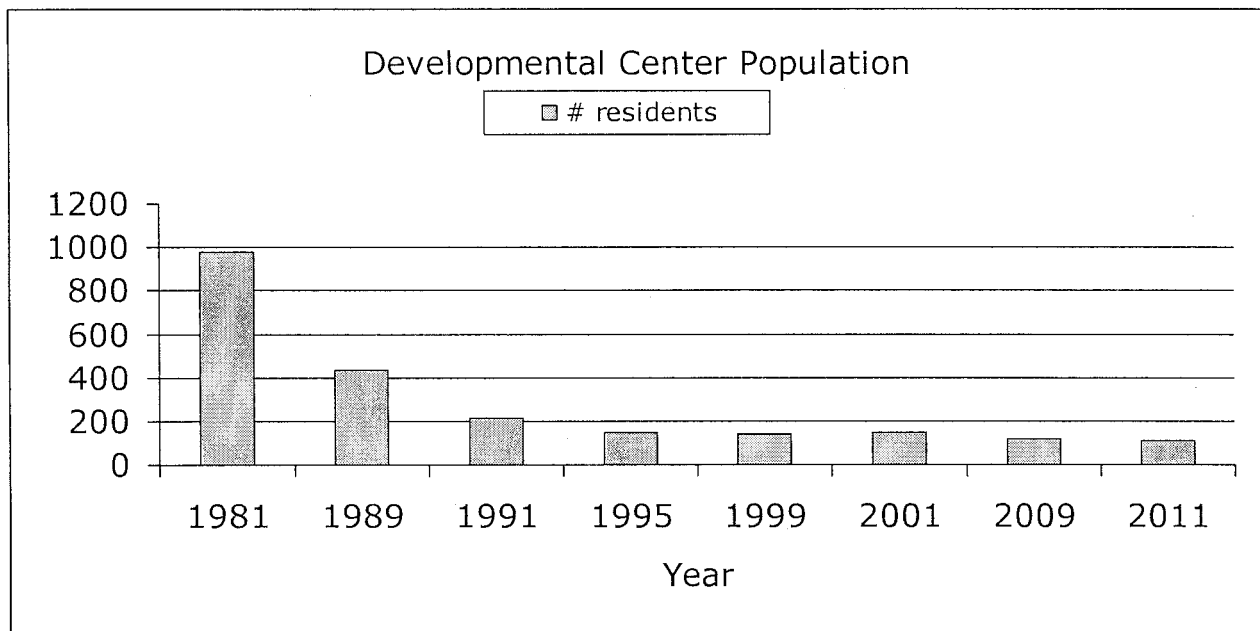


Senate Appropriations
SB 2012 – Department of Human Services
January 18, 2011
Testimony of Teresa Larsen, Protection & Advocacy Project

Developmental Center

The Arc's law suit with the State of North Dakota ended in 1995 at which time the population at the Developmental Center was 144 residents. Sixteen years later, 107 individuals with developmental disabilities remain at the institution. Despite the mandate of the Olmstead decision, the financial assistance of Money Follows the Person, and the target goals set by the Transition to the Community Task Force, we have discharged a net of just over two individuals per year for the last sixteen years. A significant portion of this net decrease is due to deaths.



The 12th anniversary of the U.S. Supreme Court's Olmstead decision will arrive in June. The Olmstead decision stands for the proposition that it is unlawful discrimination for a state to unnecessarily place a person with a disability in an institution.

At the Developmental Center, this means a resident must have placement in a less restrictive setting: 1) when the State's treatment professionals determine a community placement is appropriate; 2) the individual resident does not oppose community placement; and 3) the State can reasonably accommodate that placement, taking into account the resources available to the State and the needs of others.

The least restrictive setting is "a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible." [U.S. Dept. of Justice regulation]

It is of particular note that the United States District Court that initially decided the Olmstead case determined that the State could "provide services to plaintiffs in the community at considerably less cost than is required to maintain them in an institution." In general, this is also true in North Dakota where the average per diem at the Developmental Center is over \$500/day, closing in on \$200,000/year.

The Developmental Center Transition to the Community Task Force has been in place since 2005. It established target populations beginning in 2006, with the first one being to reach a population of 127 residents by July 1, 2007. This target was achieved. The intermediate goal set by the Task Force was to reach 97 by July 1, 2009. This was revised to 115. The actual population of the Developmental Center on that date was 123. The long term goal of the Task Force was to be at 67 residents by July 1, 2011. This has been revised to 95 and, reportedly, the Developmental Center is on track to reach that goal. The current population is 107. The Task Force has now set its population goal of 67 residents for July 1, 2013.

There have been some barriers to de-institutionalization and the developmental disabilities service providers, along with other Task Force members have been working together to address these. A Centralized

Project Development Team has been assembled to encourage creative ways to address community capacity issues.

Transition funds, to assist with moving residents to the community while down-sizing the institution, have been made available in the DHS' budget as follows: 05-07 biennium - \$50,000; 07-09 biennium - \$2.5 million (\$1.6 million Federal and \$900,000 General); 09-11 biennium - \$0.

DHS submitted an OAR (# 407) to the Governor for transition funds for the 11-13 biennium in the amount of \$6,095,817 (\$3,382,849 Federal and \$2,712,968 General). This will reportedly provide for 28 ICF/MR beds, phasing in 4 beds each quarter. DHS has indicated that it cannot approach the goal of 67 by July 1, 2013 without these monies.

There are currently twenty-five individuals on the Residential Decision-making Profile list, compiled by Developmental Center staff. With few exceptions, these are individuals who have been determined by State professionals to be appropriate for community placement and who want to move. The State of North Dakota has the resources to make this happen.

As of June 2009, at least eight states and the District of Columbia had closed all state operated residential facilities with sixteen or more residents who have intellectual or developmental disabilities. Those states are Alaska, Hawaii, Maine, New Hampshire, New Mexico, Rhode Island, Vermont, and West Virginia. The first of these states, New Hampshire, closed its facilities in 1991.

There is no need to continue to have individuals with developmental disabilities move into the Developmental Center. At \$500/day, North Dakota can provide the needed resources and support in the community for individuals to remain near their families and friends in small home settings. This is their right.

Thank you. I am happy to answer questions.

