

Trial Testimony -- 1977

Inadequacy
of Records

". . . My impression was that the records were generally deficient. That is important because the records really are a guideline to where the individual is and what the individuals need and if that's not assessed correctly and spelled out and planned clearly, then there is no way to provide those things for the residents."

(Clements, N.T. 2-22)

"I did examine a number of records at random. . . the records were inadequate and incomplete."

(Clements, N.T. 2-78)

Pennhurst Death Investigation
Clements, 1980

"We found gaps, sometimes several months; in decedents' charts these gaps were often just prior to the terminal event." (p. 2)

"Progress notes were fragmented and multi-disciplinary, creating hazardous situations." (p.2)

"In many instances in records of deceased residents, it became obvious that signs of problems were present long enough before the terminal event to prevent death or mitigate threat of serious accident or disease." (pp.2-3)

". . . documentation of the process of medical diagnosis and treatment is scandalously poor." (p.4)

"The effects of poor documentation of the medical diagnosis/treatment paradigm are extensive."(p.6)

Records of formal annual exams are "sketchy and superficial." Generally conclude with a single diagnosis of "mental retardation" even where powerful drugs such as Tagamet and Dyazide, which have no known use in treating mental retardation per se are being used.(p. 6)

Seizures recorded individually on small forms, taped into the record, often mixed with lab reports, etc. . . . no running summary of seizures written down in a single place -- "inconvenient, dangerous." (p. 10)

Many nurses' notes substitute for physician -- fragments record of resident's care. (p. 10)

Physician progress notes "extremely difficult to follow" -- kept in different places, using different forms." (p. 10)

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Inadequacy of
Programming

"Programming at the time of my visit was almost non-existent." (Clements, N.T. 2-77)

"Q. 'In your opinion, are individual treatment plans for each separate individual necessary in order for the habilitation process to proceed?'
A. 'Yes.' " (Clements, N.T. 2-78,9)

"Without adequate staff and without an adequate treatment program there are certain other things that people tend to do in lieu of that staff and treatment program. One is physical restraint. Another is chemical restraint. . ." (Clements, N.T. 2-82)

". . . you talk about head-banging, you talk about biting, all of these things that we see so commonly in institutions . . . what is the treatment? Correction of the situation -- not pills . . ." (Clements, N.T. 2-84)

". . . when you provide chemical control without the other program the only purpose for the drug is simply control and you are going to have to continue the drug because you have nothing else to offer, and these drugs are not without dangers. Some of the results are irreversible." (Clements, N.T. 2-82)

". . . drugs should not be used alone but in conjunction with other programs. There should be a built-in provision for an attempt at lowering the dosage hopefully to eventually get the individual off the drug."
(Clements, N.T. 2-92)

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". . . we emphasized inappropriate and poorly informed use of psychotropic drugs at Pennhurst. . . because such practices are generally symptomatic of inadequate program planning and execution." (p. 8)

"Psychotropic medication is overused and used as a substitute for programming on a large scale at Pennhurst." (p. 8)

"In no instance of any record examined was there documentation of less restrictive measures of behavior modification being tried, nor did any of the annual program reviews reflect any serious attempt to address the issue of replacing psychotropic drugs with more constructive forms of behavior management." (p. 8)

". . . Annual program reviews are lacking in medical input."

Infirmary is used as a "last resort" placement for residents who continue to exhibit unmanageable behaviors despite drugging . . . clearly "highly restrictive and inappropriate." (p. 8)

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Inadequacy
of Health-
Related and
Environmental
Conditions

"If I can speak generally . . . the living situation at Pennhurst is one of large day rooms, large sleeping areas, where large numbers of people congregate and live together. In most cases there is no pretense of privacy, the noise level is extraordinarily high, the level of supervision is low." (Clements N.T.2-36)

". . . the environment at Pennhurst is not conducive to acquiring new skills; indeed, it is more conducive to losing skills that one has already developed." (Clements, N.T. 2-37)

". . . congregate bathing practices. . ." (Clements, N.T. 2-45)

". . . bathing in the tub . . . carried out by hose arrangement." (Clements, N.T. 2-37)
". . . flooring gets wet and is extremely slippery and hazardous. . ." (Clements N.T. 2-43)

". . . simply sitting there, whiling away their lives. " (Clements, N.T.2-57)

". . . barren, minimal furnishings, no decoration." (Clements, N.T. 2-54)

"There were a number of errors (improper feeding techniques) at Pennhurst in which individuals there are essentially confined to bed unless they are taken out."
(Clements, N.T. 2-62)

"Q. 'Are there also hazards (aspiration, asphyxiation) for persons . . . in inappropriately-fitted wheelchairs?'

A. 'Yes. . . the same hazards would exist. . .'" (Clements, N.T. 2-65)

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"One of the most serious problems observed . . . was their universal and all-pervasive idleness . . . the most immediate and obvious effects are accident, injury, self-abuse, and abuse by staff." (p.9)

"abundance of aberrant behavior is a sign of Pennhurst's emotionally-depriving environment." (p. 9)

"There should be a monthly review of accidents, injuries, etc. for the purpose of instigating general preventive measures. Some of these might be . . . removal of hazards (slippery floors, etc.), better staff coverage at critical periods (getting up in the morning, bathing, feeding, etc.)" (p. 12)

"Wheelchairs not properly adapted either for posture of use at mealtime. . . some too high." (p. 9)

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Inadequacy
of Health-
Related and
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"You need to know if the individual has difficulty swallowing and if there are certain techniques that you can use to assist that individual . . . It is hazardous at best when you are feeding another person. . ." (Clements, N.T. 2-64)

"Individuals do choke and, because of their inability to get air in and out, die."
(Clements, N.T. 2-67)

1974-77 (3 years, 1 month period) -- 10 deaths allegedly due to aspiration, aspiration pneumonia, asphyxias. (Clements, N.T. 2-69)

". . . some simply gulping food."
"A great deal of food went on the floor."
". . . the very rapid way an individual eats cramming it down very quickly." (Clements, N.T. 2-71)

". . . if they don't eat quickly, their food is stolen. It certainly, in no fashion, allows residents to eat in a normal fashion . . . it is more a situation of survival than pleasure." (Clements, N.T. 2-72)

"One of the problems you get into is this -- I don't care if you add a hundred employees in one of these large day rooms with 15 or 20 or 30 people, you still couldn't accomplish anything other than control. . . It would be much better if you could improve it to five or four or three." (Clements, N.T. 2-74)

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"Non-self-feeding residents being fed hurriedly, using dangerous technique of raking food off spoons by drawing them upwards over the teeth -- an open invitation to choking and aspiration."
(p. 9)

unsupervised stealing of food. (p. 9)

Trial Testimony -- 1977

Overuse and
Inappropriate
Use of Drugs

"I think they (drugs) are essentially overused in many institutions, including Pennhurst."
(Clements, N.T. 2-88)

Unit C-7 -- 67% on tranquilizers
Unit C-8 -- 54% on tranquilizers
Unit C-9 -- 25% on tranquilizers
Unit C-10 -- 50% on tranquilizers
(Clements, N.T. 2-89)

"Q. ' . . . I take it that your general impression . . . is that the ratios at Pennhurst indicate an overuse of drugs?'

A. 'It would certainly make me strongly suspect that that is the case.'"(Clements, N.T. 2-92)

"Certainly, without any question, there is inadequate documentation of the records as to the use of drugs, the effect of drugs, the possible hazard of the drugs." (Clements, N.T. 2-93)

(results of review of random sample of 39 residents' medication):

". . . 51% were receiving psychotropic medication." (Sprague, N.T. 3-35)

"35 or almost 36 per cent (were receiving anticonvulsant medication)." (Sprague, N.T. 3-36)

". . . 30 per cent receiving both the psychotropic and the anticonvulsant." (Sprague, N.T. 3-36)

"There were 40 per cent of the residents receiving drugs that were receiving two or more of the drugs at the same time. . . There are a *thousand*

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"Use of psychotropic medications is particularly problematic." (p. 7)

". . . rationale for medications being used to treat those conditions, is at best occult and obscure." (p. 6)

"Multihandicapped patients regularly receive Long lists of medications of various kinds while having no stated diagnoses, signs or symptoms which would explain the drug's use."(p. 4)

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Overuse and
Inappropriate
Use of Drugs

whole range of hazards giving two or more drugs at one time." (Sprague, N.T. 3-37)

". . . On the basis of the 51 per cent of the residents receiving it (tranquilizing drugs); on the basis of the residents who are receiving psychotropic medication, 40 per cent receiving polypharmacy; on the basis of the length of time they are getting it; and on the basis of the very inadequate monitoring of the effects, they are being used excessively.'

"Q. 'Would you characterize such usage as constituting chemical restraints?'

A. 'Yes. I believe that's the characterization.' "
(Sprague, N.T. 3-44)

"In my survey of the roughly 303 times medication was ordered, even counting trite phrases, such as "Behavior that I have referred to above," evaluation was only attempted 29 per cent of the time."

"Q. 'Is this a significant deficiency?'

A. 'I would say most significant deficiency.' "
(Sprague, N.T. 3-45)

"Q. 'What would you consider essential to constitute adequate and continued monitoring behavioral effects?'

A. '. . . an adequate diagnosis and specification for why the medications are being given and what is expected. . . an evaluation of how the resident is responding now compared with prior to the onset of the medication, and the specification of . . . why the medication is being given. . . Then, after the start of the medication, routine -- probably weekly, certainly monthly -- assessments of the effects of the medication.' "
(Sprague, N.T. 3-46)

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"Orders for these drugs are regularly written without a precise statement or description of behaviors they are intended to control. . . (p. 7)

"Staff have no specific information to assist them in determining effects of drugs." (p. 7)

"This consultant's notes consistently contain recommendations for psychotropic treatment based on sketchy information whose source is not documented." (p. 7)

"One can only conclude . . . drugs are being prescribed irrationally, or . . . are being prescribed without continuing evaluation of clients' present needs." (p. 6)

Overuse and
Inappropriate
Use of Drugs

"Q. 'Dr. Sprague, in your opinion are the drug prescription and administration practices at Pennhurst State Hospital compatible with minimal professional standards?'

A. 'No, they are not. Particularly we referred to Exhibit 43 which was the Joint Commission Standards, where it specifically stated that drugs should not be used in a manner to interfere with the patients' or resident's rehabilitative program.

I think that professional standard is not followed at Pennhurst.'

Q. 'In your opinion are the drug standards practiced at Pennhurst appreciably below the minimally-accepted professional standards?'

A. 'Yes, they are.' " (Sprague, N.T. 3-54,55)