

Statement of Clarence J. Sundram
to the Court, Status Conference

O'Toole v. Cuomo, United States v. New York.

United States Courthouse for the Eastern District of New York

June 23, 2025

It has been an honor to serve as the Independent Reviewer in this case with the support of both the Plaintiffs and the Defendants. My team members – Tom Harmon, Steve Hirschhorn, Mindy Becker, and Kathleen O'Hara -- and I have regularly visited with class members both in adult homes and in their apartments to hear from them and see how they are doing. I'm pleased to report to the court that the vast majority of them are doing well and are happy with the choice they made as a result of the Settlement Agreement in this case to move into their own apartments in the community.

The court is well aware of the long and sometimes torturous path this lawsuit has traveled. What I would like to do this afternoon is to highlight some of the major accomplishments under the Settlement Agreement thanks to the advocacy by the Plaintiffs' attorneys and the US DOJ, and the efforts of the State staff and settlement provider staff, many of whom are in the courtroom today.

I should note at the outset that while the parties may have had disagreements over the years, they have never lost sight of their shared interest in ensuring the class members have the opportunity to move out of impacted adult homes to suitable community housing with the services and supports that they want and need. They have been able to listen to one another's concerns and reach agreements to move forward, sometimes with the mediating assistance of the court.

Some of the notable achievements as a result of the Settlement Agreement include:

1. The creation of a dedicated pool of supported housing units available to class members who wanted to move out of impacted adult homes. This is significant because it ensured that class members would not have to compete with other groups looking for community housing in a city where affordable housing is scarce.
2. The transition of 1283 class members from impacted adult homes to community housing, with only about 10% choosing to return.
3. “Closing the front door” to new admissions of persons with SMI to impacted adult homes, improved screening of prospective admissions and enactment of State regulations barring such admissions in the future.
 - a. At the same time, the State Increased monitoring of adult homes' self-reporting of their transitional status and the census of residents with Serious Mental Illness.
 - b. As the Court is aware, the parties agreed to a Supplemental Agreement which capped the class as of September 30, 2018 so that future admissions would not become members of the class. Nevertheless, and to its credit, the State **voluntarily** agreed to treat post class cap admittees to impacted adult homes in the same manner as class members and to offer them the same opportunity to move to supported housing. 160 such persons have been moved.
4. The creation of the Peer bridger program in the Supplemental Agreement which created a regular presence of peers at the impacted adult homes, and increased accountability within the adult homes due to the presence of peers and other providers. This program will continue post-dismissal with a greater focus on class members who are in the community. The Peer Bridger program has increased opportunities for social events (e.g., picnics, weekly bowling groups, etc.) to build

relationships with peers and other class members and combat the loneliness that some class members experience. Peers have also played an important role as a “jack of all trades,” stepping in to fill gaps in services and assisting class members to secure items needed for transition, such as IDs, SNAP applications etc.

5. The Settlement Agreement respects the autonomy of class members to make their own decisions. But by the creation and implementation of an Informed Decision Making Tool, it also ensures that a class member’s decision to forego the opportunity to move out of the adult home is an informed one, with review of each such decision –and the efforts of the State and settlement providers leading up to it --by the Independent Reviewer team.
6. The creation of a settlement-specific care management program that trained contracted agencies and staff to work in the unique settlement context, and its progressive strengthening to increase the requirement for regular contact with class members by:
 - a. Creation of the Adult Home Plus program of care management and 12:1 AH+ caseload standards (2016). I should note that this is one of the most intensive support standards in human services.
 - b. Integration of Health Home Plus with a 1:20 caseload ratio as a care management step-down option.
7. The development by the Office of Mental Health of a Mapping Project which displays the location of available apartments and the community resources nearby, and later facilitating housing searches across Housing Contractor agencies.
8. As the need for a greater level of support than is available in supported housing became increasingly evident, arranging for priority access to level II housing which provides increased staff presence and support.

9. Increased responsiveness to class member choices regarding living arrangements including one bedroom apartments, housing with or without housemates, and housing with non-class members.
10. Increasing the amount of allowable rental payments to secure apartments in more desirable neighborhoods and greater availability of one bedroom apartments desired by class members.
11. Progressive responsiveness to the accessibility needs of class members with limited mobility, and increasing rental subsidies to obtain accessible housing.
12. Extending the incident reporting and investigation obligations of providers to all class members and continuing such obligations after the dismissal of this case.

There are many more specific initiatives I could discuss, and for those who are interested, I recommend reading the annual reports that have been filed with the court.

But perhaps as or more important than any of the specific actions taken has been the policy embedded in the Settlement Agreement of accepting class members as they are. Many of us in the courtroom can remember a time when people with SMI were excluded from housing programs if they did not maintain a period of sobriety, or engaged in activities that providers found distasteful. The Settlement Agreement, with its emphasis on Person Centered Planning, respects the decision-making autonomy of class members, accepts them as they are, and tailors services and supports to enable them to achieve and maintain stable housing in the community. The fact that so many of the class members discharged to the community as long as 10 years ago still remain stably housed provides strong support for this policy and practice adopted by the State.

As we envision life after the Settlement Agreement, I would be remiss not to recognize the larger government and political environment that is likely to affect the lives of class members and others like them. The implementation of this Settlement Agreement has been heavily dependent on Medicaid and other federal programs like the Supplemental Nutritional Assistance Program or SNAP, SSI and SSDI. Most class members are poor and depend for their health and mental health services on Medicaid. Most receive SSI or SSDI based on their disability and one third of those payments partly support the rent they pay for their supported housing. Due to their limited income, most are also dependent on SNAP to buy food. And the care coordination services that they receive to help them navigate the complex landscape of multiple health, mental health, housing and other support services is also paid for by Medicaid.

I mention these financial support systems and the class members' dependence on them because many of these programs like Medicaid and SNAP are threatened in federal budget proposals by massive cuts and restructuring that could destabilize their lives and the lives of others like them. Seemingly simple things, like increasing the periodic recertification of eligibility for Medicaid and SNAP, could result in eligible class members losing the benefits if they are unable to make and keep appointments, assemble documents, and fill out forms – tasks for which they often depend on the assistance of care coordinators – the very people whose jobs are also being threatened. The advocates who have come to their aid in the past – public interest law firms, federally funded protection and advocacy agencies, pro bono assistance from private law firms – have also had their funding threatened, their nonprofit status questioned, and the specter of economic and other sanctions raised.

In this case, the work of the private plaintiff's attorneys and the United States Department of Justice has been essential to maintaining accountability for implementation of the Settlement Agreement, as has been their access to the court when needed. It is a small reassurance that for the transitional year

proposed in the orders before the court, plaintiffs' lawyers and the court will remain available should the circumstances necessitate it.

In closing, I would like to acknowledge the presence in court of Ilona Spiegel, one of the named class members, who along with Steven Farrell and the late Raymond O'Toole, took the courageous step to stand up and fight for their rights under the Americans with Disabilities Act. In doing so, at some risk to themselves, they have helped hundreds of others have the opportunity for a better life outside an institution.

Thank you.