



Aerial view of Laurelton Center, Union County

Beginning of end for institutions?

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provided, the nature of the commitment bears no reasonable relation to its purpose and the individual's due process rights have been violated."

Following the presentation of evidence at the trial that residents had experienced physical abuse, including rape, beatings and frequent injuries due to poor supervision, Broderick concluded: "We find that the constitutional right to be free from harm of the residents of Pennhurst has been violated."

State officials do not deny that some abuses have taken place in the past, nor do they dispute that some residents could be released immediately, if the facilities were available to handle them in the community.

Hope to 'stay' order

Nonetheless, Gov. Milton J. Shapp has authorized state Atty. Gen. Robert P. Kane to file a motion to stay the order.

"This is one of the most difficult decisions I have faced as governor," Shapp told the Associated Press.

While he stated that his administration is "philosophically in tune with the court's findings," he questioned whether an appointed judge has the right to make such a far-reaching decision.

Shapp stressed that his administration has been working for seven years to move the mentally retarded into residential settings.

Since 1971, the population of Pennhurst has been reduced by 700. By November, there will be only 850 left in the center, he said.

Throughout Pennsylvania, Shapp noted, patient populations are down 25 percent since 1971, from 11,200 to 8,200.

Since 1971, the amount spent on community living arrangements has increased more than 30 times, to \$30 million.

In spite of this major commitment to such arrangements, Shapp said, "We cannot simply wave a magic wand and erase the inequities and faults the many decades of mistreatment have created."

Unsure of effect

State officials are not sure what the effect of the decision might be, if the state's appeal is unsuccessful. If it is interpreted narrowly, they say it may affect only Pennhurst. However, they are worried that a precedent may have been established that will result in the eventual closing of every institution for the mentally retarded in the country.

"The decision does not on its face in any manner relate to any other institution than Pennhurst," said James R. Adams, general counsel of the state Bureau of Public Welfare legal office.

"It may be that there are legal principles which would have application to other facilities in other states, but this is an early stage of the litigation and it is

not at all clear that what we have so far will wind up being the law of the case."

The Laurelton superintendent is unsure what the effect of the decision will be. Even though Broderick said that his ruling applies only to Pennhurst, his decision does specify "Pennhurst and like institutions."

"I don't know who's going to determine what's like and not like," Power said. For himself, he does not consider Laurelton to be "like" Pennhurst.

However, he said, "I would like to see Pennsylvania continue to emphasize alternatives to institutional placement wherever possible"

Scartelli said that "I would think that within six months we could place 200 to 300 (residents into the community), if the group homes and the services were available."

However, he said, "I don't see how that can be done unless the resources are made available for the community."

Employees at the two centers are possibly most worried about the long-term effects of Broderick's order. The leadership of the union that represents them, Council 86 of the American Federation of State, County and Municipal Employees, also is worried.

"We're very much concerned," said Pat Salvatore, district director for the council. The union has 821 members at Selinsgrove and 284 at Laurelton.

Because of its possible effects, the AFSCME council in Philadelphia is watching the case closely, and intends to join the state in fighting the order.

In his order, Broderick said that similar job opportunities should be made available elsewhere, which is a general practice when facilities are phased out.

"In the past, when an institution would phase out or close down, we would sit down with the state and try to place our people somewhere else," said Salvatore.

That process might be complicated by the fact that the responsibility for care for the retarded in the state would pass to the county mental-health mental-retardation offices. Although 90 percent of their operating budgets generally come from the state, they are nonetheless a part of separate forms of governments, the counties.

Officials of the area's mental-health mental-retardation offices are wondering how the Pennhurst decision might affect them.

Should the Selinsgrove and Laurelton centers close, the MHMR unit in Northumberland County would have to care for about 90 county residents housed at those centers.

At the same time, the MHMR unit in Snyder, Union, Montour and Columbia counties would have to care for about 120 county residents now in the centers.

The only way that could be done, say the administrators of those agencies, would be for the money now being spent by the state at the state centers to "follow" the residents back into the community."

Charles Evans, administrator of the MHMR unit for Snyder, Union, Montour and Columbia counties, said that any change should come gradually. Already, he says, fewer and fewer people are being sent to state centers.

Even without Broderick's opinion, Evans said, the trend has been toward bringing the retarded into the community.

Of the 121 residents of the four counties who are in state centers, he said, "most of those are admissions prior to 1970."

If Broderick's opinion is not reversed, it may have the effect of speeding up a process that was already under way anyway.