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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

NOV 15 1995

at 3 o'clock and 05 min. p. M.  
WALTER A. Y. H. CHINN, CLERK

Attorneys for the United States  
of America

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	
	)	Civ. No. 91-00137 DAE
Plaintiff,	)	
	)	STIPULATION AND ORDER REGARDING
v.	)	PROCEDURES FOR REPORTING AND
	)	INVESTIGATING ALLEGATIONS OF
STATE OF HAWAII, et al.	)	ABUSE AND NEGLECT AT HAWAII STATE
	)	HOSPITAL
Defendants.	)	
	)	

The parties to this action, the United States of America, Plaintiff, and the State of Hawaii et al., Defendants, hereby stipulate and agree to the following measures at Hawaii State Hospital (HSH) regarding the HSH abuse and neglect allegation reporting and investigation system, in addition to the provisions of paragraph VIIIB of the Stipulation and paragraph 8 of the Remedial Plan entered as an order of the court on January 19,

1995. According, within the timeframes specified below, the State shall continue or adopt, as indicated, the following actions.

1. By no later than October 10, 1995, HSH shall implement the use of a standardized medical/clinical assessment form designed to provide all patients involved in abuse and neglect allegations, physical assaults, and other serious incidents with a timely, uniform clinical and medical assessment by appropriate professional staff.

2. By no later than November 1, 1995, the Department of Health or HSH shall provide the independent investigators with clerical support to assist them in performing their investigative duties at HSH outlined herein and ¶ 8 of the January 19, 1995, Remedial Plan.

3. By October 10, 1995, HSH shall implement the use of a formal intake report to be filled out by the Risk Manager, and/or by the nursing supervisor during off hours, to record compliance with the specific notification and response requirements of ¶ 8 of the January 19, 1995, Remedial Plan and the requirements identified herein.

4. For allegations made beginning on October 10, 1995, the comprehensive investigations of all allegations of abuse and neglect conducted by the independent investigators, subject to the provisions of ¶ 5 below, shall be tailored to the nature of the allegations. At that time the State shall discontinue any

pre-screening of abuse or neglect allegations to determine whether an independent investigation should be conducted.

5. By October 10, 1995, HSH shall establish and implement, for appropriate patients, a clinical case review protocol to evaluate and appropriately respond to allegations of patients who repeatedly file or articulate allegations of abuse or neglect that are clearly secondary to their psychiatric delusions. The protocol shall include the following elements:

- a. No more than five patients at HSH shall be subject to the protocol at any one time.
- b. All allegations made by these patients shall be documented and forwarded to the Patient Protection Committee.
- c. All such allegations not referred to an independent investigation shall be referred to the unit chief and the patient's treatment team for review and recommendations.
- d. HSH's patients' rights advocate and the Patient Protection Committee shall periodically review the files of these patients.
- e. The HSH Administrator, the Patient Protection Committee, the Department of Health, and the Department of Justice may require an independent investigation of any allegation involving the patients identified under the protocol.

6. By October 15, 1995, the independent investigators shall include in their investigatory reports, where applicable, findings and recommendations regarding staff and hospital practices which may have contributed to the incident they are investigating. The HSH Administrator, management staff, unit staff, and Patient Protection Committee may recommend specific staff and hospital practices, including but not limited to patient supervision, staffing, compliance with HSH policies, and appropriate crisis intervention, which the investigators should consider in conducting investigations. For purposes of this paragraph, the term "staff and hospital practices" shall not include practices in areas of clinical practice, i.e., those for which medical, psychiatric, or other professional training is required.

7. HSH shall continue to track the implementation of recommendations for corrective and preventive actions emanating from special incident reviews and independent investigations. This process shall include, within the limits of confidentiality requirements, monthly reports on the status of the implementation of corrective and preventive actions for the hospital's management team and all unit chiefs and head nurses. Such monthly reports shall be provided to the United States Department of Justice as part of HSH's monthly status reports.

8. Beginning November 1, 1995, Dr. Nancy Ray shall review investigation reports on all allegations made between October 10, 1995 through April 30, 1996, for the purpose of evaluating the

adequacy and quality of the reports and making suggestions and recommendations to HSH on reducing or preventing the causes of harm that may be identified in the reports. Dr. Ray shall provide HSH with a monthly written report of her comments and recommendation, beginning on December 1, 1995. Such monthly reports shall be provided to the United States Department of Justice as part of HSH's monthly status reports.

9. HSH shall continue to review regularly all incidents of restraint, seclusion, and physical intervention to determine whether staff actions led to injury or abuse and, if so, to determine and implement corrective actions.

10. HSH shall continue to provide training in, and clinical staff supervision of, crisis intervention for all residential unit staff. Training shall be provided during orientation of new staff, during inservice staff training sessions, and as part of incident specific case reviews by unit interdisciplinary and paramedical staff.

11. By October 10, 1995, HSH shall reaffirm with staff the hospital's priority for low use of restraint and seclusion as patient management interventions.

12. The State reaffirms its commitment under the Stipulation and the Remedial Plan entered on January 19, 1995, that

- a. Substantiated abuse or neglect shall result in prompt and appropriate disciplinary action, and

- b. Adequate supervision of direct care staff shall be provided, including implementation of HSH's policies and procedures for delineating clear lines of clinical authority and responsibility.

In addition, the HSH associate administrator for personnel affairs shall be responsible for providing consultation to direct care supervisory staff sufficient to ensure that such supervisory staff understand the appropriate/necessary steps to take in disciplinary subordinate staff under their supervision.

The Remedial Plan and stipulation, entered as an order of the court on January 19, 1995, shall remain in full force and effect as described in that document except to the extent that it is modified by this stipulation.

Dated: Honolulu, Hawaii, NOV 15 1995

DAVID A. EZRA  
DAVID A. EZRA  
UNITED STATES DISTRICT JUDGE

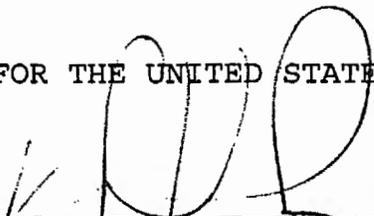
AGREED TO:

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United States of America vs. State of Hawaii, et al., Civil No. 91-00137DAE; STIPULATION AND ORDER REGARDING PROCEDURES FOR REPORTING AND INVESTIGATING ALLEGATIONS OF ABUSE AND NEGLECT AT HAWAII STATE HOSPITAL