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# PROGRAM REPORT



The Public Interest  
Law Center of  
Philadelphia

December, 1996

## Protecting the First Amendment Rights of Residents of Tennessee's State Institutions

The Public Interest Law Center of Philadelphia recently secured an important victory for persons with disabilities residing in state institutions by creating a new foothold for their First Amendment rights. In a class action suit filed by the Law Center against the state of Tennessee, a federal court approved a consent decree prohibiting the state from isolating the residents of state institutions by preventing them from meeting with advocates and members of the community and from participating in community activities.

The First Amendment of the United States Constitution safeguards the freedom of association and freedom of speech to all citizens. And yet, many people who reside in Tennessee's state institutions were relegated to isolated and restrictive settings and were forced to conform to the institution's schedule which left no room for meaningful association with visitors from the community, other residents and employees. The residents even found themselves prevented from participating in religious activities.

Initially, the state argued that any restrictions on the residents' freedom of movement, association, expression and communication was justified by the "the special characteristics and needs of the residents and the institution." However, shortly before trial was to begin, the state conceded that it had, in fact, violated the First Amendment rights of the residents. As a result, the state agreed to develop and implement policies which encourage unfettered association and communication with others, to train staff regarding these policies and to discipline them for violat-

ing the First Amendment rights of the residents.

This agreement came as part of a larger lawsuit seeking the development of community-based services which will enable the residents of state institutions to become integrated members of the community. **This successful application of the First Amendment freedom of association in this context will assist advocates throughout the nation to promote full citizenship rights for persons with disabilities.**

## Program Reports:

### *Environmental justice:*

For the first time in the history of environmental litigation, the United States Department of Justice filed briefs supporting the Law Center's position that federal law prohibits the Commonwealth Department of Environmental Protection from taking actions which adversely affect minority communities like Chester City, Delaware County.

In the meantime, the permit granted by the DEP for the construction of the hazardous waste disposal plant (which led to the litigation) expired and cannot be renewed. In light of the litigation, it is unlikely that the waste disposal company will apply for another permit.

*continued*

## PROGRAM REPORTS, Continued

### **Education:**

We are still waiting for the state Supreme Court to proceed with their review of the state's challenge to the order of the Commonwealth Court that directed the state to pay an additional \$41 million to the Philadelphia school district for the 1996-1997 school year. The additional monies were specifically earmarked for programs necessary to end the disparity in educational opportunities between the city and suburban school districts.

In the meantime, the Law Center has aggressively pursued legislative initiatives which would comprehensively address the state's inequitable funding scheme and ultimately direct more monies to the Philadelphia School District.

As part of that effort, the Law Center held a conference on November 21, 1996 which was attended by more than 140 civic and business leaders, along with five local representatives to the state legislature: **Senator Vincent Hughes, Senator Allyson Schwartz, Representative**

**Babette Josephs, Representative Kathy Manderino and Representative James Roebuck.** The conference, which was sponsored by the Greater Philadelphia Urban Affairs Coalition, the Pennsylvania State Education Association and United Bank of Philadelphia, offered those who attended the opportunity to share information about the state's current unfair funding scheme. Participants were also invited to develop strategies to strengthen legislative support for increased funding to Philadelphia's public schools. If you were able to join us, you already know what a great opportunity this offered to share ideas and identify common goals. One of the most notable moments, one of many, was when Dr. John DeFlaminis, Superintendent of the Radnor Township School District, called for a city/suburban coalition to address this problem together. Stay tuned for future developments.

### **Community Policing:**

Thanks to the generous support of the Samuel F. Fels Fund, the Law

Center will be able to continue its work toward improved community and police relations and to provide assistance to victims of police misconduct in the coming year.

### **Other News:**

We are pleased to announce that Matthew Gutt, a third year law student at Temple Law School, will join the Law Center in September of 1997 for one year as a Philadelphia Public Interest Fellow.

This fellowship, which was developed by the Public Interest Section of the Philadelphia Bar Association, provides participants the opportunity to defer their entry into private practice for one year while they work at one of the area's public interest firms. Matt has agreed to defer joining Ballard, Spahr, Andrews & Ingersol for one year in order to work at the Law Center, and we are glad to have him! Thanks to Matt and Ballard, Spahr for their participation in this program, and to Eve Biskind Klothen at the Bar Foundation for her support!

**Have A Happy And Healthy Holiday Season And New Year!**



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