Members of the Committee:

Thank you for the opportunity to testify.

My name is John Hirschauer, and I am a journalist at *National Review* in Manhattan. My words today are my own.

I have covered state facilities for individuals with intellectual and developmental disabilities on a national level and have worked on behalf of one in the Connecticut state legislature. I still spend much of my weekends volunteering at that facility in my hometown, where I have received the unparalleled gift of interacting with the most profoundly impacted segment of the disability population.

I want to begin my remarks with qualifications that I think are almost too obvious to state but will state anyway, lest I be accused in their absence. First, I, and I doubt any of my co-panelists, have any fundamental opposition to people choosing to live in a non-congregated, so-called “community” setting. And for those individuals who have left Polk or White Haven of their own volition, and have found their new arrangements superior, I’m thrilled for them. Sincerely.

Indeed, there is one—and only one—side here today that seeks to impose its preferences on unwitting and unwilling parties. And it’s not ours.

We are here today for one reason. We are not here because the residents of Polk and White Haven State Centers are being mistreated. We are not here because the residents of Polk and White Haven State Centers are unhappy with their care. We are not here because their families are unsatisfied with the services that their loved ones receive. We are not here because residents have been trapped there against their will, or because they are not given frequent, often desperate offers to leave. No; we are here because the Department, in tandem with a coterie of non-profits and academics, want to close down Polk and White Haven State Centers against the stated preferences of the stakeholders served there.

It’s worth pausing to reflect on the tremendous power these triune forces have over the narrative, the narrative that indelibly shapes the way we approach these proposed closures.

When state facilities close, who hosts the closure ceremonies? They do. Who warns us, microphone in hand on the lawns of shuttered facilities, not to be “nostalgic,” to think of these facilities as a blight on our history, an embarrassment to the Commonwealth? They do. Who tells, in sordid detail, of the abuses that occurred years ago, and damn every facility for the shameful events at Pennhurst State School in 1968? They do. When instances of abuse come up in group homes or “community” living arrangements, however, who tells us that we must not take that as representative or indicative of the community system at large? They do.
When the history of "disability policy" is written, who tells a story devoid of nuance, a Manichean tale where congregation is bad per se and that which they conveniently call the "community" is a good unto itself? They do.

And who is it who calls for these places to close in the first place? They do.

But what about the clients at Polk and White Haven State Centers? What about the people who have said they want to stay? What about what they think? Shouldn't their goals and aspirations matter more than the abstract ideological goals and almost theological aspirations of those who would close their home against their will?

No matter how much families and individuals protest, and no matter how often the Department claims this decision is about "choice," they know as well as everyone here that to abide this decision is ultimately to affirm the Department in its fundamental, unavoidably arrogant premise: To assume it knows better than the individuals and families at Polk and White Haven State Centers what is "best" for them.

This is an ideological decision. The panel to follow will admit as much; the social science we have available seems to suggest that, for the most profoundly impacted individuals in the disability community, it might actually be slightly cheaper to deliver care on a campus setting than in isolated, dispersed care homes. Their closure literature says as much: do not focus on cost, they say. This is about, in their words, "civil rights."

I interviewed the Department for a story I'm writing for our publication, the transcript of which you'll find in the documents I've added to my testimony. I asked them plainly: "Would closure be the right thing to do even if the overwhelming majority of residents and their loved ones opposed it?" The roundabout, implied answer? Yes.

The Department stressed to me that this decision was about "choice" for residents and their families—who, it bears remembering, are being displaced from Polk and White Haven against their will; who, it bears remembering, have been assiduously and aggressively given every offer and opportunity to leave if they no longer want to live there; who, it bears remembering, are by necessity among most profoundly impacted members of the disability population.

The Department told me that residents could "choose" one of the state's two remaining public ICFs. I asked the Department, plainly, whether those centers would inevitably be subject to the same closure efforts.

Secretary Miller— and I must say, I appreciate her honesty— said, "I mean that's certainly an option. That's certainly a potential future."

Is that, in any meaningful sense, a "choice?" No. It's a dogmatic pronouncement; a religious faith, the sort that seeks to convert by force, to impose itself on people, irrespective of their expressed preferences to the contrary. Because, indeed, if the facilities to which these residents move will be subject to this same unpopular ideological action a mere few years
hence, what type of “choice” is the Department offering? It is no choice at all. To call it such insults everyone involved, supporters and opponents of this action alike. Let’s call this what it is: the preferences of the Department, the preferences of academics, the preferences of non-profits, working toward that paradisaical day when no one will live in congregation with their peers, indeed, the preferences of people utterly removed from the actual families who live, and work, and play, and thrive at the state centers finally and completely usurping the preferences of the residents and families themselves.

They’ve closed admissions. They’ve shut down facilities by executive order. And they have the audacity to claim that the declining census, a census whose decline is of their making, is evidence that these settings are no longer necessary.

So that’s the choice you have. On the one hand, you have the preference of non-profits, who cannot abide the thought that that some person with a disability, somewhere in the state of Pennsylvania, lives in brick buildings rather than at the bottom of a lonely cul de sac, the preference of those eager for a symbolic victory, desperate to add a brick from the Polk and White Haven administrative buildings to their morbid collection of trophies, who, to quote Edward Whalen, “are mesmerized by the mystique that all institutions are bad, that the buildings should be razed, the earth bulldozed over and then salt poured on the grounds so it will never rise again.”

What will they say in response?

They will express a hollow sympathy for those residents at Polk and White Haven who have expressed a desire to remain, but will insist that “it can only be expected; they don’t know any other way of life.” And when they say that, I want you to think: Has this standard ever been applied in reverse? When a resident in a group home, in an independent apartment, or in some alternative habilitative arrangement, expresses their satisfaction with their services, do we tell them, “it can only be expected; they don’t know any other way of life”? Do we insist that they have to, against their will and enforced by state armament, leave their current living arrangements, ones with which the have verbally expressed their satisfaction, and live in a congregate setting like White Haven or Polk State Center, and then, and only then, take them at their word that they preferred the group home in the first place?

Of course not.

Why is it that we’re told, time and again, by the various non-profits, academics, department officials, and legislators, that we need people with disabilities to be self-advocates, that we should trust their voices, and when those that can open their mouths do so, and tell us what they want, we refuse to accept it?

The panel to follow will also tell you that, while they “understand” that “change is scary,” that ultimately, most parents and individuals are “happy” after they move. But most of the parents and individuals are “happy” now! And if they’re not, they are given every opportunity to leave! Indeed, this canard comes up time and again. When families and
individuals express their overwhelming preference for a state center, it’s demeaned as illogical risk-aversion, a pathological “fear of change.” But when a majority of families and individuals subsequently express their satisfaction with private, dispersed care homes in the “community,” this is treated as prima facie sanction to close a state center! When they tell you that many families are satisfied with services in the community—and indeed, I applaud those that are—remember that in 2011, a survey sanctioned by the Protection and Advocacy Organization—no friend to these facilities and the choices of their residents, as you know—taken in fall of 2011, that 97.2% of the 1013 families surveyed did not want to move their loved one from the state center where they currently lived, and of the 307 residents capable of responding, 271 said they wanted to stay.

You can’t have it both ways. Family preferences matter, or they don’t.

They’ll cite their social science conducted by their social scientists, and will cite, no doubt, their favorite study, that found, to no one’s surprise, that the residents who left the notorious Pennhurst State School fared better in the community. That comparison is only valid if you presume that Polk and White Haven are like Pennhurst, which I think is a calumny.

And speaking of calumny: The Department said this decision was done to “recognize the worth and inherent dignity of the residents at Polk and White Haven State Centers.” If you think about this remarkable statement for two seconds, you’ll realize what a backhanded indictment this is of the individuals and families who choose Polk and White Haven of their own volition. Do the over 300 families at the centers not “recognize the worth and inherent dignity” of their loved ones, or do the residents not recognize it in themselves? It’s a cheap smear dressed in the language of compassion, which, indeed, is a fairly apt description of this decision in toto.

What’s the reality? The reality is this: some of the most profoundly and grievously impacted members of the disability community reside in the state centers. One Polk resident laments: “I’m going to kill myself.” Another goes to the administration building every day and cries, because he is being forced to move. This cannot be explained away with paternalistic explanations about how it is “all they’ve ever known.” This is their home. They live with their friends. And non-profits with a vested interest in one specific residential service model, adhering to an ideological framework that trickles through academia, that somehow, because a person lives in congregation with their peers, and lives in a small town, their home is unfit to exist, and needs to be closed against the will of families and individuals served there. One size does not fit all. The most behaviorally and medically impacted individuals in the disability community rely on the safety net provided here. Do not take it away in a haste, no matter how badly the panel to follow wants to host another closure ceremony. Thank you.
[inaudible 00:00:00] I wasn't sure this is a telecommunications. I wasn't sure how the callback worked on it but glad it worked here. I'm here with Secretary Miller and deputy secretary Kristin Ahrens from the Office of Developmental Program. We were thinking we could just start with the questions that you had emailed and if you have any additional questions from there we'll go at that point. But just to go in order with what you already sent, if that's okay.

Sure. That's great.

Hi John, this is Teresa. How are you?

Hi secretary Miller. How are you?

Good. So with respect to your first question about soliciting feelings of family members and loved ones before deciding to close, we certainly appreciate that this decision has very significant impacts on the residents and their families. State center and ODP or Office of Developmental Programs leadership do meet and interact with families of residents regularly. And in particular our Office of Developmental Programs leadership has frequent contact with the family groups from each of the state centers. Given the trend of the institutionalization and the recent closure of Hamburg State Center. Other potential closures is a frequent topic of discussion as you can probably imagine.

Because of the requirements around staffing notification, we're not able to formally discuss a planned closure with residents and families until union leadership is notified. That has to be the first step in beginning the formal closure process and conversations. But DHS staff will be meeting with families on a monthly basis beginning next week. And eventually these formal meetings will shift to quarterly. But the state center and DHS leadership is always available to discuss the closure process and talk about residence options and plans. And of course, the public hearings will also take place on September 9th for Polk State Center and September 12th for White Haven State Center.

With respect to number two, excuse me, will closure be the right thing to do even if the overwhelming majority of residents and their loved ones opposed it? So our four state centers provide dedicated and compassionate care for their residents. But I do think it's important to remember that they represent a system that we as a country have been moving away from for decades.

Today children with intellectual disabilities are growing up with more inclusive educational settings, more visibility in the workforce, and really a greater sense of opportunity that an everyday life is possible for them. So the Wolf's administration and DHS's goal is to provide services and support so that all people can have the opportunity to live among their family and loved ones in the community. And this is a step to continue the work that's been in progress for decades to build really a more inclusive Pennsylvania.
Teresa Miller: We certainly understand completely that there is fear and uncertainty with this really significant change, but we are not going to rush this and no resident will leave the center without a destination of their choosing and a fully developed plan that meets their physical, emotional, social and mental health needs. We're going to work very closely with residents and their families through every step of this transition. This will include monitoring and checking in with families and residents regularly for a full year after they transition to a placement just as we did in the case of the Hamburg State Center closure.

Teresa Miller: Our experience with previous closures, most recently, Hamburg Center has taught us that it's really important to meet regularly with residents and their families so they're fully informed about their options and confident in the choices that they make. Many of the families of residents at Hamburg Center also opposed the center's closing when it was first announced, but the majority of Hamburg residents and their families chose community-based living once they learned about all their options. And we've also conducted surveys and found that people who moved from Hamburg Center to community settings are overwhelmingly happy with their new homes.

John: Could I interject there? Do you mind?

Teresa Miller: Sure.

John: I was just going to ask, I mean, I know you're familiar with the social science here and that there's a sort of complacency effect, right? So when people are in the institutions the parents and loved ones are very satisfied with the institutions, right? And then when they move out, they're very satisfied often when they leave. So I think just the same way that, well they're afraid of change if only they could sort of get the sand out of their eyes, they would see how great community living is sort of. There's a recency bias that's baked into those numbers as I'm sure you're aware.

Teresa Miller: I mean, I think it's worth noting that 50 years ago, as you know, on the average stay, length of stay in our state centers is 45 years. So a lot of these individuals have been in there for a very long time. This is all they've known. In some cases it's all their family members may have known and 50 years ago when their decisions were being made, they didn't have all the options that they have today. I think in a lot of cases, when these closures are announced, this may be the first time the residents and their families are really looking closely at all the various options out there.

John: You don't think that they, and this is totally with respect, I just want to make sure that I'm as clear as I can be. I mean, you don't think that the residents of the state centers, because I've spoken to a number of their family members and the sense I got is that they get nothing but invitations to go move their loved ones into the community. I don't think they're unaware of those options. I just think that they have refused the invitation to move their loved ones out.
Kristin Ahrens: This is a deputy secretary, Ahrens. As part of the Benjamin Settlement that we're operating under, we do offer residents the option to move into the community. So we do have that conversation with residents and their family. But what's really different about this is when we begin these family meetings, we actually talk through, how to think about selecting a community provider. We do extensive work with individuals and families around what to think about and how they could look for a good match in terms of the community provider. And then we are actually bringing in community providers for individuals and families to meet them and talk through kind of support needs and what all of the community providers offer. I think the level of effort and conversation with a transition plan like this is very very different than what we do under the settlement agreement.

Kristin Ahrens: I think the other thing that I would say, I understand you're saying about, recency bias, but from talking to individuals and families that transition from Hamburg, some of the things that you hear are, first of all, people are living closer to family. So we have individuals and families that will share about this level of connection or relationship that they're able to have because their loved one is now in a community home.

Kristin Ahrens: The other thing that I would say that sort of resonate from some of the comments when you talk to people who have transitioned is, tremendous pride in having their own home and having furniture that they picked out. That sense of ownership and pride that goes with having a home and community. That's, obviously different than it would be in an institutional setting. I understand recency bias, but the message and what we're hearing is definitely different when it comes to relationships and that sense of really a home in the community.

John: Sure. That's well taken. I would only respond by saying that, I'm totally for, not that really it matters what I for, but I'm just kind of giving you my perspective to the degree that it's relevant. I'm totally for people living in the community. I don't think anybody's really prima facie against that. For individuals who can find that level of meaning as you're describing in the community, that's great. But this is compulsory, right? It's not as though everyone at the state centers has said, "You know what? We want to move out." This is being foisted upon them without their consent actually.

Teresa Miller: Well, and again, I mean these are the decisions we have to make in terms of as we watch the centers continued to decline. At some point you have to make a decision that the money that's being spent to keep people in these centers could go a lot further if more people were served in the community. And if any of these individuals want to stay in a state center, they will have that option as well. What we found with, again, with our most recent closure with Hamburg is that overwhelmingly once people see all the different options and as Kristin explained, they really get a chance to visualize kind of what living in the community could look like. They overwhelmingly choose that option, but there
will certainly be the option to also go to another state center if that's what they choose. It's all about their choice.

John: Well, those centers will inevitably be subject to the same action that these are, right? You're just kicking the can down the road for another five years before this whole thing happens again, right?

Teresa Miller: I mean that's certainly an option. That's certainly a potential future.

John: So is this-

Teresa Miller: Do you want-

John: I'm sorry. Go ahead.

Teresa Miller: I didn't know if you wanted to go through the rest of the your questions or we just do this.

John: No. I'm sorry keep going through my questions. I'm sorry.

Teresa Miller: Do you want to go through number three? So I said that the community-based settings honor the inherent value of every person to guardians who prefer the state centers not honor the inherent value of their loved one. We can't really talk about this without remembering that at one time state centers were the standard care and in many cases the only option for people with intellectual disabilities. But that was in terms of being the standard care was way more than 50 years ago. And that was a world far different than what we know today. Pennsylvania is Mental health and Intellectual Disability Act of 1966 and the 1982 Federal Adoption of the Medicaid Home and Community-Based Services Waiver were both really major steps towards shifting away from institutionalization in favor of making community and in home options accessible for people with intellectual disabilities in their families.

Teresa Miller: As we've talked about, many of our state center residents have spent most of their lives in these centers and it's likely all they've known and likely all their families and their loved ones have known for them. So this decision is not at all to disrespect family's wishes for their loved ones. We're in no way assuming that we know what's best for our residents. As I said, this is really all about choice, but I think by their very nature, state centers do isolate people from the community. So this is about helping residents and families know that there are other opportunities that can provide the same compassionate care, but with more independence and inclusion in communities. So this is really about valuing our fellow Pennsylvanians with intellectual disabilities as fully contributing, participating members of our communities.

Teresa Miller: Number four, is the existence of state centers actively prevent persons from disabilities from contributing to their community or exploring lifelong learning
opportunities and discount the inherent value of every person? What does the state think by closing them to admission? Does the state think that guardians would actively choose a place that doesn't honor the inherent dignity of their loved ones with intellectual disabilities.

Teresa Miller: So it's important to note, and this often gets misinterpreted, I think. But the state cannot and has not closed admission to any state center. Admissions are handled through court order following a 1981 Pennsylvania Superior Court ruling that dictated that, "People with intellectual disabilities cannot be placed into a state center unless services cannot be provided in their existing home or in their community." So this is also consistent with the United States Supreme Court's 1999 ruling in Olmstead that, "Unnecessary institutionalization of people with disabilities constitutes discrimination under the ADA."

Teresa Miller: State center admissions are not closed, but they do happen infrequently now because these treatment options are available in people's current homes or elsewhere in their community. There are far more options than what residents and families previously knew or had access to. And again, this decision is not being made to disrespect family's wishes for their loved ones, but all people, including people with intellectual disabilities deserve inclusion in their community, that sense of independence and opportunity to live in everyday life.

Teresa Miller: As we said, we found through our experience that while the early days of this transition process are scary and we appreciate that they're uncertain, residents and families find community-based options that meet their needs and often exceed their expectations. We've heard from family members of former Hamburg residents that both former residents and their families find placements in community homes that they truly love. They're able to live in a home that they're proud of and as Kristin said, "Because it's theirs," and we hear a lot of that feedback. Residents of state centers and their families deserve the opportunity to consider the options available for residents to live in the community and closer to their families.

Teresa Miller: At the end of this process, though, as we talked about, their choice could be to transfer to Selinsgrove Ebensburg state center and the department would obviously honor that choice. If you're interested as well in talking to either former Hamburg residents or we've got a social worker that was very involved in the Hamburg closure and is now working with us on these closures. If you're interested in talking to anyone like that, I do think it would be informative and we'd be happy to see if we can find some folks who might be willing to talk to you just about their process because we certainly know this is a process.

Teresa Miller: Once we announced the closure again it's a very significant change so we understand all of the concerns and and fear that people have at this point. But also recognize in our past closures that that does change over time and again, when people have seen all their options, they overwhelmingly do choose the community and are pleased with it.
John: And question five before just because I have a few follow ups after that.

Teresa Miller: Sure. Is there anything residents or families can do to change the department governor's mind? We do intend to move forward with the closures.

John: Thank you for the time that, I'm sure it took to formulate those responses and I appreciate your candor. As I sort of touched on earlier you said that you honor families choices even if they want to move their loved one into a state center from one of these existing state centers. But you also said that, it's a possibility that this new state center that they end up choosing could be subject to the same process and litigation or not litigation yet anyway, that's being undertaken right now. What type of choice is that really? If you're essentially saying, "You can move into a state center now, but within the next few years there's a good chance that the same thing is going to happen."

Teresa Miller: Well, I mean, it is an option today and we've announced that these closures are going to take us three years to complete. Again, we always have to think about the declining centers and and we have to think about you know what's realistic and sustainable and today, it's just not sustainable to have four state centers. But if some of these individuals transitioned to the other state centers, I don't think you're going to see any additional closures in the next couple of years because it's going to take us all the resources we have to work on these two state centers. It would be some time, I think, before you would see any additional closures announced, but again, that's just a process where we have to see what the centers looks like. We know this population is getting older and we know not a lot of younger individuals are coming into the state centers again for all the reasons we talked about. But we can't predict when we'll be here again. I think that's the bottom line.

John: You said that you... There was some sort of either statutory or unspoken agreement by which you weren't allowed to talk to families about closure until you formally announced closure to the Unions. Can you explain how that works to me?

Teresa Miller: The Unions are the first entities to be notified of state closures.

John: So you couldn't even discuss or debate it with the families. That's off limits too?

Teresa Miller: I mean I think as, as I mentioned earlier, we do interact with families of residents regularly and as you can imagine we've closed down as a state 19 centers over the last several decades. So the issue and the fact that we have four left, the issue of further closures does come up. So it certainly an issue that we talk about with families, we just don't talk about a very specific closure before it happens.

John: Are there tactical reasons for that? So maybe family can organize or things like that?
Teresa Miller: If you can appreciate when you make a decision and announce that you're closing a center, as we've talked about, that's a very, very big deal. We don't take that lightly and scaring people unnecessarily before we have plans to do something is just not in the best interest of anyone. I don't think. Our priority is always going to be doing everything we can to make sure we have the best care for individuals in the state centers.

Teresa Miller: If we started talking to anybody about closing a particular state center before we have really planned to do that, if I were somebody who worked at that state center, for example, why would I stay there? And so I think that's the problem is if we start talking about these things before we're ready to move on it, we can see staff leaving in droves because they're concerned they're not going to have a job. And at the end of the day, our first concern is making sure that we have quality staff and the individuals in these facilities are taken care of. So I think there's a reason that this is how these announcements happen. I know it doesn't feel good and I know it feels very abrupt and sudden and again, it is scary. But I think for the residents it's the best way to do it because again, we don't want to see staff leave and not be able to provide the good quality care that we provide today.

John: So the difference between a preemptive announcement and an announcement that says, "We're going to close," I mean wouldn't same process sort of follow, right? I mean these people are going to be losing their jobs or transferring to another facility anyway at the end of three years. So presumably there are job losses and fears of staff morale going down and things like that as soon as a closure is announced. I mean, I think even sort of pro community people, I've taken a look at the social science, they've sort of conceded the fact that once closures are announced, oftentimes there is a huge... it precipitates a huge decline in staff morale and I mean, even that hell hole that was Penn state school. If you look at James Conroy's figures and he's the probably the most pro community person that I'm familiar with or aware of. He even concedes that it's possible that staff morale can go down and that can have a negative effect on the residents. So-

Teresa Miller: I mean I think the difference though is that once we announce a closure, we are working, not just... We've talked a lot about the residents because they're our first concern, but staff concerns are also on the top of our mind and we work very closely just like we do with the residents we work very closely with the staff and we're looking for other opportunities for them. We're talking to them about what they want in their future. And again, with these two closures, we're talking about a three year timeline and we work with all the other agencies. So not just within DHS to look for potential other opportunities. It's a really close communication that we keep with the staff to make sure that they feel supported as we continue with these processes. And Kristin will chime in here as well.
Kristin Ahrens: John, I think, one of the things that we felt was really important for the residents and families in terms of transitioning but also for the employees, was having the [inaudible 00:21:16] extended 36 months transition period really allowed for a lot of planfulness in terms of staff and what they’re thinking about their future.

Kristin Ahrens: Thinking about I could be employed for three years, I think we’ll plow that number of people who feel like they need to jump ship early on. When we were at the state centers yesterday, in addition to, talking with individuals and families, the other thing that we did was, we met with each shift coming on with all of the staff. We had our human resources staff, we had our labor relations staff and talked with those employees about all of the support that they would have in terms of thinking about future options for themselves.

Kristin Ahrens: We had tremendous success when we closed the Hamburg center. And in terms of placement of the employees in other states divisions. We will follow a very similar process. So there are things which, as we get closer to the actual closure date of each center, the remaining employees there will be offered... We’ll actually post state divisions for [inaudible 00:22:35] center employees only so that they get preference in hiring.

Kristin Ahrens: So there’s really a lot in place to try to prevent what you’re talking about in terms of people leaving. We had very frank discussions with staff about morale and understanding. We do have our state employees assistance program. We’ll be in the centers making sure that staff have some support. We are definitely mobilizing and trying to keep morale up because the key here is to keep up the high quality service [inaudible 00:23:08] staff and then providing to the individuals and make sure that they’re engaged in the transition planning for each individual. we have very robust plans for each person to transition.

John: Okay. Thank you. So you earlier quoted or not quoted I suppose, but but mention the Olmstead decision and talked about unnecessary institutionalization, which of course is one of the three prongs of the qualifiers there for that decision, right? And I wanted to for a moment because I think that the implication was that Olmstead in some way necessitates that you closed down state centers or reduce their population or what have you? I just wanted to read two quotes. One from the plurality and the other one from a concurring opinion and just because there are other States of course that have more facilities and and higher populations per capita in their facilities than Pennsylvania does and they’re not under DOJ scrutiny. So I’m just going to read these two quotes.

John: First, this from the concurring opinion, "As already observed by the majority, the ADA is not reasonably read to impel States to phase out institutions, placing patients in need of close care at risk. Each disabled person is entitled to treatment in the most integrated setting possible for that person. Recognizing on a case by case basis that setting may be in an institution."
John: And then from the concurring opinion, "it would be unreasonable. It would be a tragic event then where the Americans with Disabilities Act of 1990 to be interpreted so that States had some incentive for fear of litigation to drive those in medic... in need of medical care and treatment out of appropriate care and into settings with too little assistance and supervision."

John: Now I know that the inevitable retort, right, is that well, every single person can be served in the community. Nobody needs these facilities and actually you're a bad person if you think so, but I've spoken with folks, for instance, I'm sure you're familiar with who, I'm sure must be a big thorn in your side. Susan Jennings, who's son Joey has been in and out of... He had six different stays in psychiatric wards, cost the state upwards of $365,000. He was incredibly violent towards himself and other people.

John: I went down to White Haven to tour the facility and I saw what was one of the most tragic things I've ever seen, to be honest with you, was him standing on a chair by himself yelling and it was in a way that... the same way that somebody who works with their hands for a long time develops calluses on their hands because they've worked with them for so long. His voice never faltered. His voice never cracked as if he had never screamed before. But it was a... just utterly harrowing thing to behold. He's the type of individual who would dart out into traffic and who would hurt himself and others.

John: I'm just going to be frank and say, my heart breaks to think that a decision like Olmstead, which I think is a balanced decision, is being invoked to remove the one certainty that people have in a world of uncertainty. That these families who so often are viewed, I think as pawns in this broader ideological game of saying, we have this a priori assumption that everybody can be served at the bottom of a cul de sac in a residential neighborhood and buy groceries all day. And I know that's a caricature of your position of course, but allow me.

John: I just think that it really is a tragic thing. I don't know what else to say, but I know that a lot of people of goodwill disagree with this decision. They do honor the inherent value of their loved one. And I think they can be reasonably informed about the community options and still come down on a different side perhaps than the department has. But my soliloquy is over do you have a response to that?

Kristin Ahrens: John, this is Ahrens. I'm just going to step in for a second. And again, I understand and respect that you're approaching this from a different perspective than we are here. I'm not saying this to disrespect, but the [inaudible 00:27:31] If we're going to continue these conversations, these questions, I wanted to just stick to what we're doing. And I mean, if you have a perspective on this, again, I respect that you're entitled to that, but I think we've established that you have a perspective here. So I just want to make sure we're having a productive conversation.
John: So let me... I'm sorry, go ahead.

Teresa Miller: The one other court case and you mentioned Olmstead, and just to be clear in my response, I also talked about a Pennsylvania Superior Court case. We've heard some people yesterday say, we're denying admissions and there's a big waiting list. There's not a big waiting list for people trying to get into state centers. And we haven't, as I mentioned, closed admissions to any state center. But they are handled through court order and that's following the 1981 Pennsylvania Superior Court ruling that dictated that, "People with intellectual disabilities cannot be placed in a state center unless services cannot be provided in their existing home or in their communities."

Teresa Miller: You got to have a court order to get into a state center. And so we're just seeing the centers decline because again, not just with Olmstead but also with local court decisions. we have to look at the community whenever possible. That is resulting in a declining centers. That is our reality. Again, respecting everything you said that's our reality that we have to navigate.

John: I'm sorry. Go ahead.

Teresa Miller: And we are under a settlement that is an Olmstead case. The Benjamin settlement is an Olmstead case. [crosstalk 00:29:13]

John: I just wanted to apologize for that. I usually I'm more professional than that, but I just... This is an issue that strikes close to my heart, so you'll have to forgive me.

Teresa Miller: We appreciate that.

John: My final question is, what would you say to a family member who is aware of the community options, but nevertheless would prefer that their loved one remain in a state center? Do you think that they are ill informed? Do you think that they... If only they were just a little bit more educated about the options out there, that they would be sort of enlightened and understand the paradisaical possibilities that await them in the community or what would you say to a sort of straggler who's unwilling to comport? I would say.

Teresa Miller: We want this to be about choice. And so while we will have folks look at all their options, an option is to go to another state center. And for some with the Hamburg closure, we had a handful that did go to other state centers. The vast majority chose community options. But this is all about choice. So what I would say to somebody is, it's your choice. We're asking you to look at lots of different options. But at the end of the day, if you choose to have your loved one, or if the resident themselves chooses to go to another state center, that is their choice and we respect that.

John: Okay. Thank you for your time. I appreciate it. My apologies again.

Interview DHS (Completed 09/18/19) Page 10 of 11
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Teresa Miller: No worries. I appreciate it.

Kristin Ahrens: If you have any other questions that you want to [inaudible 00:30:48] talk to a social worker, we could track another family, let me know.

John: Okay. All right. Thank you.

Teresa Miller: Thank you. Have a good day.