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July 28, 2016

Rebecca Bond
Chief
Disability Rights Section – 1425 NYAV
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: The Arc's Letter of Support for DOJ Investigation of Arnaldo Rios Case

Dear Disability Rights Section Chief Bond:

I am writing to offer the support of The Arc of the United States (The Arc) for a letter from Matthew Dietz, the attorney for Arnaldo Rios, calling for the U.S. Department of Justice (DOJ) to investigate the North Miami Police Department and the State of Florida.

Mr. Rios is an individual with autism who was recently institutionalized in a psychiatric unit following the police's shooting of his behavioral therapist, Charles Kinsey. Following the shooting, the representative for the officer involved stated to the media that the intention was not to shoot Mr. Kinsey, but to shoot Mr. Rios. Mr. Dietz's letter, attached here for your reference, calls for the Department of Justice to open an investigation of the North Miami Police Department for its actions and statements involving Mr. Rios and Mr. Kinsey as well as the State of Florida for its failure to provide appropriate community placement to Mr. Rios following the incident. The Arc strongly agrees that such an investigation is necessary and warranted.

With nearly 700 state and local chapters nationwide, The Arc is the largest national community-based organization advocating for and serving people with intellectual and developmental disabilities (I/DD) and their families. The Arc promotes and protects the civil and human rights of people with I/DD and actively supports their full inclusion and participation in the community throughout their lifetimes. Through our National Center on Criminal Justice and Disability, we seek to build the capacity of the criminal justice system to respond to gaps in existing services for people with I/DD, ensure appropriate accommodations are provided via the Americans with Disabilities Act, and provide necessary trainings for law enforcement, attorneys, and judges on how to recognize various intellectual and developmental disabilities and how to appropriately interact with individuals with such disabilities.

When individuals with I/DD become involved in the criminal justice system as victims, witnesses, suspects, defendants, or incarcerated individuals, they face fear, prejudice, and lack of understanding. As was apparent in this case, law enforcement personnel often lack accurate and appropriate knowledge to apply standards of due process in a manner that provides justice for individuals with I/DD. In addition to improving the quality and prevalence of police training, The

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Arc supports a community-based crisis management system model, which includes time-based protocols for in-home responses and options for acute placement and is proven to reduce critical incidents, failed placements, and re-admission to psychiatric facilities for community-based clients.

Further, The Arc's position, strongly supported by *Olmstead v. L.C.*, 527 U.S. 581 (1999), is that individuals with I/DD deserve the opportunity for a full life in their community where they can live, learn, work, and socialize. To achieve this goal, they need a comprehensive, person-centered and directed, national system of appropriate high quality long-term supports and services, with a reliable and immediately accessible funding source, including Medicaid, and a well-trained, fairly compensated workforce of providers and direct support professionals. The prevalence of people waiting for services and supports is an unacceptable national crisis. It is not only a choice but also a basic civil right that individuals have adequate and appropriate supports and services needed for them to live in the community. Services must be delivered promptly in the most integrated setting and with sufficient quality and quantity to meet individual needs.

Neither Mr. Rios nor Mr. Kinsey did anything to warrant the police shooting that occurred. Thankfully, Mr. Kinsey survived the shooting and has been released from the hospital. Unfortunately, due to untreated trauma and a severe lack of appropriate community placements, Mr. Rios remains institutionalized in a psychiatric unit, isolated from the community.

The Arc is deeply troubled by the actions of the North Miami Police Department against Mr. Rios and Mr. Kinsey, the State of Florida's failure to find community placements for individuals with I/DD who require intensive behavioral therapy, and its policy of reimbursing institutional placements at significantly higher rates than community placements. In light of the above, we urge the Department of Justice to investigate the actions of both the North Miami Police Department and the State of Florida in this matter. It is vital that Mr. Rios secures an appropriate community placement as soon as possible.

Sincerely,

A handwritten signature in blue ink that reads "Shira Wakschlag". The signature is fluid and cursive, with the first name "Shira" and last name "Wakschlag" clearly legible.

Shira Wakschlag
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Expanding Opportunities for Persons with Disabilities

July 25, 2016

The Honorable Loretta Lynch
Attorney General
United States Department of Justice
950 Pennsylvania Ave, N.W.
Washington D.C. 20530-0001

Re: *Request for U.S. Department of Justice Investigation into Failing to Provide Safe Community Integration for Arnaldo Rios in North Miami, Florida*

Dear Attorney General Lynch:

It is my understanding that the Department of Justice is aware of the police shooting of an African-American therapist, Charles Kinsey, who was caring for an "autistic patient" in North Miami, and that the Department is attempting to gather as many facts as possible about the incident. Disability Independence Group represents the "autistic patient", whose name is Arnaldo Rios. On behalf of Arnaldo, I urge the Department of Justice to open an investigation of the North Miami Police Department on the basis of the violation of his rights as a person with a disability to be safe within his community, and to open an investigation against the State of Florida for violation of its obligation to provide appropriate community placements to persons with disabilities under *Olmstead v. L.C.*

On July 19, 2016, Mr. Charles Kinsey was shot when attempting to escort Arnaldo Rios back to the Miami Achievement Center for the Developmentally Disabled (MACtown). Mr. Kinsey, a mental health caregiver, was shot in the leg as he lay in the middle of the street next to Arnaldo, where he was rocking back and forth holding a toy truck in his hands. Following the shooting, the officers on the scene forced Arnaldo onto the ground where they pulled his pants below his hips, frisked, handcuffed, and then placed him in a police car for three to four hours. Arnaldo received no treatment or therapy. His intense trauma from the incident went entirely unaddressed. On the following day, upon returning to the group home, Arnaldo eloped to the scene of the shooting, and pounded the street where Mr. Kinsey's blood remained - shouting and crying. At that time, he was institutionalized at the psychiatric ward at Aventura Hospital.

During the extensive media coverage after the shooting, the representative for the officer stated that the intention was not to shoot Mr. Kinsey, but to shoot "the autistic man", and that the

officers did not realize that Mr. Rios was Autistic until much later. Of course, this was belied by the shouting of Mr. Kinsey on the scene that Arnaldo was Autistic as can be heard in the video of the shooting. According to the Miami Herald, the officers on the scene advised the director of the group home that Rios “was acting loopy,” adding that Rios kept talking about Disney characters.

While Mr. Kinsey was released from his hospital bed, Arnaldo Rios was not. He remains in the psychiatric ward where he is inappropriately placed and segregated from the community. For the past ten years, Miami-Dade County did not have any group homes with intensive behavioral therapy, and MACtown was recently deemed to have such services. Arnaldo Rios was one of the first residents for this program, and Ms. Soto believed that it was inappropriate. Within a month of living at MACtown, the group home staff restrained Arnaldo after he wanted to see July 4th fireworks, and he was later hospitalized with bruises on his body, a broken nose, and fractured finger. However, according to the Florida Agency for Persons with Disabilities, there is no other placement for Autistic persons who need such therapy in Miami-Dade County. With the traumatic events occurring by this group home, there is no possibility of Arnaldo returning, even if MACtown did provide the necessary therapy for him.

From the North Miami Police Department’s statement and actions, it was clear that they have no training in community relations with persons with disabilities or handling incidents with persons with intellectual, developmental, or psychiatric disabilities. If they do have such training, it appears to be ineffective. For a representative of the police department to admit that they intended for a sniper to shoot a person with a visible disability is reprehensible. The failure to have disability awareness training and effective policies for all police departments in this age of full community integration of persons with disabilities places the lives of all persons with intellectual and/or developmental disabilities (ID/DD) in danger of harm solely due to misperceptions and stereotypes of persons with disabilities. Aside from police training, Georgia and Indiana have both had success implementing community-based crisis management systems, which include time-based protocols for in-home responses and options for acute placement and are proven to reduce critical incidents, failed placements, and re-admission to psychiatric facilities for community-based clients.

Further, in a state with such a large population of persons with autism, the failure to have adequate housing for persons with autism or other intellectual and/or developmental disabilities in the community is a violation of the *Olmstead* mandate. Florida does not have an adequate system for placement for persons with Autism or ID/DD that need intensive behavioral treatment in community based settings. Recently, after a spate of abuse reports, a large institution, Carlton Palms Educational Center, closed its doors. However, the reimbursement rate for Carlton Palms was many times more than community based treatment facilities. As such, there are no community based treatment facilities that can provide adequate care for a person on the Autism spectrum with an intellectual disability who requires intensive behavioral interventions.

Each day, Arnaldo Rios cries to go home, but he has no home to go to. There is no local facility that can provide Arnaldo the therapy he needs. He is currently in a psychiatric facility that is inappropriate for his needs, and has not been offered alternate treatment or placements. The

State of Florida will continue to pay hundreds of thousands of dollars for in-patient treatment, when a community based facility is preferable for Arnaldo, or any person that is similarly situated to Arnaldo.

We look forward to a decision from the Department of Justice on this issue of great public importance to ensure full community integration for persons with disabilities in Miami-Dade County. Thank you for your consideration of this matter.

Very truly yours,



Matthew W. Dietz
Litigation Director
Disability Independence Group, Inc.

cc:

Vanita Gupta

Rebecca Bond

Eve Hill

Wilfredo A. Ferrer