



# The COFAR VOICE

The Official Newsletter of the Massachusetts Coalition of Families and Advocates for the Retarded, Inc. (COFAR)

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*Inside: A veteran lobbyist and professional baseball fan works pro bono for people with mental retardation on Beacon Hill, story on page 3.*

## Plaintiffs seek possible return of court oversight

*Cohen letter alleges Tauro's final order 'undermined' by budget cuts, planned closures*

Saying the Romney administration has "totally undermined the progress" achieved in a landmark court case that upgraded care at state facilities for the mentally retarded and brought opportunities for community living for many, attorneys for the plaintiffs have taken a step to reopen the case and seek U.S. District Court Judge Joseph Tauro's renewed oversight over the Department of Mental Retardation.

The case lasted from 1972 until 1993, when Tauro issued a final order requiring that members of the class action suit continue to receive a comprehensive level of treatment and services. Tauro's order also stipulated that any residents moved out of state facilities must receive equal or better care elsewhere.

In an April 6 letter to DMR Commissioner Gerald Morrissey, plaintiff attorney Beryl Cohen detailed a series of alleged violations of Tauro's final 1993 order. Three meetings had been scheduled between the plaintiffs and DMR: on May 28, and on June 7 and 8. A settlement could obviate the need to go back to court.

"We're going into these negotiations (with DMR) in good faith," said Colleen Lutkevich, COFAR Executive Director. "Every attempt is going to be made to work out our concerns." She acknowledged, however, that that may be difficult to do. (Please see **Plaintiffs on page 4**)



TOP DMR AWARD – Longtime COFAR Board member Richard Krant (back row, fourth from left) poses with COFAR members and supporters who attended a March 26 DMR awards ceremony at the State House. Krant was one of two recipients of the Gunnar Dybwad Leadership Award. Also pictured are (back row from left: WDC staff members Mitchell Greenblatt, Brian Sullivan, and George Palmer; Krant, his daughter Janis Wade, COFAR Executive Director Colleen Lutkevich, and COFAR member Laura Bradley; front row from left: COFAR Board member Diane Booher, Marcia Regner from Community Connections, and COFAR Board member Florence Finkel. (See story on page 4.)

## House, Senate restore some DMR cuts

In budget sessions in late April and mid May, the Massachusetts House and Senate voted to restore funding to community day and transportation programs for the mentally retarded that would have been slashed under the Governor's proposed budget for the fiscal year that begins in July.

(Please see **Budget on page 2**)

# House and Senate budgets are mixed bag

(Budget, continued from page 1)

Both chambers also approved budget amendments, sponsored by Rep. Thomas Stanley, D-Waltham, and Senator Susan Fargo, D-Lincoln, which would extend for another year last year's requirement that the administration delay the closure of the Fernald Developmental Center. The approved amendments would extend that closure date until at least October 2005.

However, both chambers also maintained a \$4.8 million cut in the DMR account for state-run facilities, including Fernald. And the House severely under-funded an annual settlement amount under a court suit filed on behalf of thousands of mentally retarded persons on waiting lists for care in the community. The Boulet settlement (Boulet v. Cellucci) requires a \$70 million payment this year. The House approved only \$60 million of that amount, while the Senate approved the full \$70 million.

The 2005 budget now goes to a House/Senate conference committee, which must reconcile the differences over the budget before the legislation goes to Governor Romney. Any line-item vetoes by the Governor would have to be overridden by two-thirds votes in each chamber.

Thomas J. Frain, COFAR President, said the organization's volunteers undertook a "full court press," starting in late February, to urge legislators to restore the DMR cuts and to restore funding cut from the Massachusetts Disabled Persons Protection Commission (see story in box on this page).

"Our work is still cut out for us," Frain said. "Some of these budget cuts, if allowed to stand, will decimate care for the retarded in Massachusetts."

The House and Senate actions on the budget included the following:

- **Transportation (line item 5911-2000):** The House and Senate restored a \$4.3 million cut in the Governor's budget, which would have eliminated transportation to day services for 798 mentally retarded people. These persons are cared for at home or live on their own and receive no residential services from DMR. The House approved funding for this account totaling \$4.8 million more than the governor's proposed budget, while the Senate added back \$4.28 million to the account.
- **Day programming (line item 5920-2025):** The House restored \$11.5 million of a \$12.1 million cut in the Governor's budget, while the Senate restored the full \$12.1 million amount. The Governor's cut would have eliminated day programming for these same 798 mentally retarded people.
- **Regional DMR administration (line item 5920-1000):** The House restored only \$88,400 of a \$1 million

cut in the Governor's budget, threatening the jobs of 20 service coordinators who serve 1,000 mentally retarded clients. The Senate did not restore any money to this account.

- **Clinical team services (line item 5920-2000):** The House restored \$997,000 of a \$1.2 million cut in the Governor's budget, which would have cut 50 percent of the clinical supports to 2,400 mentally retarded persons. The Senate restored \$847,000 to the account.

## *House/Senate differ on DPPC funding*

The House shot down the Governor's proposal to add \$132,419 to the Massachusetts Disabled Persons Protection Commission to enable the agency to add three new oversight and investigations positions. Continuing budget cuts have severely hampered the agency's ability to investigate cases of abuse and neglect within the DMR system.

The Senate later did approve the additional funding, meaning the outcome will be decided in a conference committee on the 2005 state budget.

In January, *The COFAR Voice* reported that the DPPC was at "the breaking point" in terms of undertaking independent investigations of abuse and neglect against adults with disabilities.

The Fernald closure delay amendment, which was approved by both chambers, would also require the DMR to submit a Fernald closure plan to the Legislature by January 2005. The plan would be required to detail which community residences Fernald residents would be transferred to and how services would continue to be provided to them. The amendment would also require that the House and Senate Ways and Means Committees approve that plan. And it would require that Fernald workers be transferred to those community residences with their clients, wherever possible.

Another amendment, approved by the House and Senate, would require a Fernald Reuse Committee to plan for the development of new community residences for the current Fernald residents and study models for preserving care and services in a section of the Fernald property. The Committee would include a Fernald resident as a member. The Senate, however, rejected a House proposal to appropriate \$99,000 to the Reuse Committee to enable it to hire a consultant to assist with its development proposals.

The House and Senate also approved an amendment to study the disparity between wages paid direct care staffers working in the community and the higher wages and benefits paid to workers in state facilities.

*Faces in the community*

## A friend at the State House

### *Veteran lobbyist and baseball fan signs up to volunteer for COFAR*

Marty Corry likes to tick off the features about baseball that have made him such a fan of the game.

In baseball, he points out, there's no clock, and you never know when the game is going to end. You often see things that you haven't anticipated—fielding plays or at-bats that can turn the situation around in a heartbeat. There are moments of great exhilaration and, just as surely, moments of great suffering, particularly if you're a Red Sox fan.

In many ways, Corry says, baseball is a lot like lobbying—the profession he's practiced for 23 years on Beacon Hill. That may explain why Corry has put into practice a lesson he learned after watching the infamous 1986 Game Six in New York—the game in which the Red Sox...well you know all too well what happened.

"When the ball went through Buckner's legs, it was as if the sky had opened up and the sun shone upon me," Corry says over a plate of bacon and eggs at the Capital Coffee Shop across the street from the State House. It's the morning after a late night House budget session, and Corry is back on the Hill, expansive as ever. His face beams with delight in the metaphor he's employing. "And God said, this is what these people go through every year, so don't ever become emotionally involved with them at that level."

He laughs out loud. He clearly delights in stories and metaphors as ways of getting his point across. And much of it isn't intended to be taken too seriously. If he'd taken that supposed advice from on high never to get involved emotionally with people in his profession, he never would have agreed to do what he's done for the past several months—advocating on Beacon Hill on behalf of people with mental retardation. It's a job he's agreed to do without pay.

"I look on this as a very small contribution to a group trying to do the right thing for the most helpless individuals," he says.

Corry actually isn't a Red Sox fan, he says, because he grew up in Baltimore and is still an Orioles fan. He came to Boston in the mid 1970s to attend Boston College, graduated and then received his law degree from Suffolk University Law School. Along the way, he met and fell in love with a girl from Scituate named Jane Malloy, married her, and then went right into the lobbying profession. He teamed up with Jane's father, Bill Malloy, who'd been lobbying on behalf of insurance



**Marty Corry**

companies, the beer wholesalers, the Massachusetts Medical Society and other interests for the previous 30 years.

Today, Corry heads Corry Associates, which has a wide range of paying clients, including the Massachusetts Nurses Association, the Motion Picture Association, Motorola, and a number of biotechnology and pharmaceutical companies.

COFAR is his only "intentional" pro bono client, he says with a laugh. He got in touch with COFAR President Thomas Frain late last fall at the suggestion of Charles Stefanini, director of governmental affairs for the Massachusetts Nurses Association. "Tom [Frain] and I met for coffee, and I could see that here was a guy with passion. It was infectious. At the end of the conversation, I wanted to do something to help."

Corry says he regards himself as just another volunteer for COFAR—but one who happens to be familiar with the often obscure and unforgiving political terrain of Beacon Hill. "A lobbyist is a lot like a Sherpa guide, he says, referring to the mountain climbers from Tibet, famous for their skill in traversing the Himalayas. "They know what the clouds are telling them: 'camp here, it's not negotiable.' You either do what the Sherpa guide tells you or you freeze to death. A good lobbyist," he continues, "finds the path between Point A and Point B to achieve a goal. But a lobbyist is only as good as the information people give him."

Corry says he's fortunate that both Frain and COFAR Executive Director Colleen Lutkevich "both bring knowledge, experience, and a sense of where the bodies are buried that have made it a lot easier for me to connect the dots." Thus far, Corry has organized two meetings between Frain and Lutkevich and state lawmakers. He says he's tried to provide assistance to COFAR with strategic planning on legislative and other issues and has tried to identify legislators who might help further legislation of benefit to people with mental retardation. "I've been doing some grass roots talking with legislators to get a handle on the system," he adds. "They

certainly are dealing with some tough decisions about how state resources must get allocated.”

Back in Corry’s small suite of offices at the base of Beacon Hill, the baseball theme is evident. Mounted in small glass cases on several shelves of a bookcase are baseballs autographed by the great names of the game, including Ted Williams, Sandy Koufax, Mickey Mantle, Brooks Robinson, Frank Robinson, Ernie Banks, Bob Gibson, and many more. On the bottom shelf, there’s even a ball autographed by none other than Bill Buckner and Mookey Wilson.

In baseball at least, Corry *has* taken to heart that divine advice not to get too emotionally involved.

## Plaintiffs may return to court

(Plaintiffs, continued from page 1)

Cohen’s letter cited the administration’s planned closure of the Fernald Developmental Center in conjunction with “unprecedented” personnel reductions and budget cuts in the DMR system in the past several years as “systemic violations” of Tauro’s final disengagement order. The letter also noted that there has been no approved plan to deal with the “necessary multiple moves and disruption, which will occur to the daily lives of the residents and their families” when Fernald is closed.

In a 15-page response to Cohen’s letter, the DMR maintained that there was no evidence of noncompliance with Tauro’s order, and termed the charge of systematic violations due to budget cuts “premature.” “The Department is providing the requisite supports to meet the needs of all *Ricci* class members as required by the (Tauro’s) Final Order,” DMR General Counsel Marianne Meacham stated in the May 11 response.

In 1972, separate lawsuits were initially filed on behalf of the residents of five state facilities: Fernald, Dever, Monson, Wrentham, and Belchertown. The lawsuits charged that the facilities were understaffed and that conditions in them were inhumane. Tauro, who visited the facilities to observe the conditions first hand, stated in his 1993 disengagement order that the legal process had resulted in capital and staffing improvements to the facilities and a program of community placements that together had “taken people with mental retardation from the snake pit, human warehouse environment of two decades ago, to the point where Massachusetts now has a system of care and habilitation that is probably second to none anywhere in the world.”

However, Cohen’s April 2004 letter to Morrissey stated that 30 years after the original class action complaints, there has been a reoccurrence of some conditions at certain of the state facilities, including insufficient staffing, lack of equipment, delayed maintenance, repeated problems with infestation of vermin, transportation issues, an inadequate food delivery

system, and an increasing number of unexplained resident injuries.

In the DMR’s May 11 response to Cohen, Meacham maintained that the Department was in compliance with federal Medicaid regulations governing the state facilities and that state and federal surveys in the facilities indicated that client needs were being “substantially met.”

In a separate April 12 letter to Morrissey, plaintiff attorney Lisa Goodheart contended that the state was further in violation of Tauro’s order because of a failure to provide adequate salaries to direct-care staff in the community-based system of care for the retarded, where the majority of the members of the class action suit now live. These inadequate salaries have caused “unacceptable levels” of staff turnover and a decrease in the quality of services, Goodheart’s letter stated.

In February 2003, Governor Romney announced plans to close the six remaining state facilities, starting with Fernald, contending that there would be cost savings. Those remaining facilities are the Fernald, Glavin, Monson, Hogan, Tampleton, and Wrentham developmental centers. Since the original announcement, the administration has backed off of the original savings projections.

Cohen’s letter to Morrissey tied the alleged violations of Tauro’s order to a series of cuts in the DMR budget. According to Cohen’s letter, since June 2001, the DMR has lost 483 full-time employees due to budget cuts. Cohen also

**(Please see Plaintiffs on the next page)**

## Krant gets top DMR award

Calling for a continuing role for state-run facilities in the system of care in Massachusetts for the mentally retarded, COFAR Board Member Richard Krant accepted the Department of Mental Retardation’s Gunnar Dybwad Leadership Award at a March 26 State House ceremony (see photo on page 1).

Krant was one of two recipients this year of the Dybwad Award—the DMR’s top award to individuals who have made “outstanding contributions to people with mental retardation and their families.” Also receiving the award was Mary Lou Maloney, a longtime advocate and lobbyist for the Association for Retarded Citizens (ARC) of Massachusetts.

Krant, 79, a past president of the Wrentham Association, has been involved in citizen and other advisory panels representing both facility and community-based recipients of DMR services for several decades. DMR Commissioner Gerald Morrissey, who presented the awards, called Krant “a tireless and fearless inspiration to all of us...He has participated in every level of citizen involvement.”

The March 26 ceremony, jointly sponsored by the DMR and the DMR State Advisory Council, was also held to present Recognition Awards to some 35 advocates, social workers,

and facility and community staff workers from around the state.

In accepting the Dybwad award, Krant made a pointed reference to the need for state-run facilities. COFAR has spent the past year advocating on behalf of the facilities, which have been marked by the Romney administration for closure. "We really believe there should be a place in the future for the facilities," said Krant, whose son, Bryan, has resided at the Wrentham Developmental Center for more than 40 years.

Krant, who said his son receives "marvelous care" at Wrentham, also made a point of stressing the importance of care in the community, saying that "the [state] facilities are only 4 percent of the people. The 96 percent in the community are a main concern." He also paid tribute to a new generation of advocates for the mentally retarded, which he said is succeeding his own generation. He described the new generation as "bright, well-educated, tough, young people," and cited COFAR Executive Director Colleen Lutkevich and COFAR President Thomas Frain as examples of that new generation.

Lutkevich, who attended the awards ceremony, praised Krant, saying, "he's always managed to advocate strongly for both the facilities and the community and to see the need for both."

Prior to the ceremony, Krant, who had flown in from Florida to attend the event, said he felt particularly honored to receive the award because "it recognizes what an important role we in COFAR play in the entire MR system."

## Book details Fernald's dark past, but omits improvements

A new book, *The State Boys Rebellion*, paints a grim portrait of the early years of the Fernald Developmental Center, noting that many children of impoverished families were sent there as late as the 1960s.

According to the book, which has been featured on CBS's "60 Minutes" and in *The Boston Globe*, these children, many of whom had normal intelligence, were provided with little education and were subjected to inappropriate medical experiments and abuse and required to do menial labor.

The book, however, does not discuss the improvements that were made at Fernald and elsewhere as a result of the 20 years of litigation that resulted from the landmark federal court suits filed in 1972.

"Fernald is a completely different place than it was 30 years ago," says Colleen Lutkevich, COFAR executive director. "*The State Boys Rebellion* is an important account of Fernald's darkest days, but we must also recognize that it has since become a world-class facility of care for the state's most severely and profoundly retarded residents."

Among those receiving the Recognition Awards were Roland Charpentier, a COFAR member and a member of the the Glavin and North Central Complaint Resolution Teams; and James O'Brien, a clinical social worker at the Wrentham Developmental Center.

## Plaintiffs look to court

(Plaintiffs, continued from previous page)

noted cuts proposed in community accounts in the Governor's 2005 budget, including cuts in day and transportation programs and clinical services. (See story on page 1 on House and Senate action on the Governor's DMR budget proposal for the coming fiscal year.) "Clearly, a policy aimed at serving more mentally retarded individuals in community settings and closing down a major institution must anticipate the need to increase resources for clinical supports in the community," his letter stated.

The budget cuts have led to a serious understaffing problem at Fernald, Cohen maintained. "The staff reductions and inadequate efforts to fill the increased number of vacancies have directly resulted in increased caseloads for remaining staff, a lack of necessary supervision, and inappropriate reliance on floating staff to cover professional and direct care responsibilities." He noted that the psychology staff-to-resident ratio at Fernald is now 1 to 54, while the social worker-to-resident ratio is 1 to 64.

Cohen's letter added that the Governor's proposed \$4.8 million reduction in the facilities account in Fiscal Year 2005 will necessarily require additional significant reductions in professional, clinical, and support staff at the facilities.

Other violations of Tauro's order alleged by Cohen include:

- The DMR has set up transition teams comprised of administrators only, which have changed the Individual Service Plans of Fernald residents without input from their guardians or clinicians.
- The DMR has failed to adhere to the requirement in Tauro's order that community programs be surveyed on a periodic basis.

## Phyllis Onusseit dies

Longtime COFAR Board member Phyllis J. Onusseit died suddenly on May 18.

Onusseit, who lived in Reading, had a son, Daniel, who resides at the Fernald Developmental Center. A member of the Fernald League, Onusseit was a frequent visitor to the State House.

"Phyllis was a great advocate and a tireless worker on behalf of people with mental retardation, as well as a kind and generous person," said COFAR Executive Director Colleen Lutkevich. "We will all miss her very much."

COFAR is a family support, education and advocacy organization funded by member families. **Become a COFAR member and receive your monthly issues of *The COFAR Voice*. For membership information, visit our website at [www.cofar-mass.org](http://www.cofar-mass.org), or write to:**

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***The COFAR VOICE***  
***JOIN COFAR IN OUR ADVOCACY EFFORTS TO PROVIDE***  
***COMPREHENSIVE CARE***  
**FOR ALL PERSONS WITH MENTAL RETARDATION**

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