



SOUTHWEST COUNSELING CENTER, INC.

100 W. Griggs Ave., Las Cruces, New Mexico 88001 • 647-2800 • 647-2898 FAX

Senator Mary Kay Papen
Senator Michael Sanchez
Representative Brian Egolf

Dear legislators:

We are asking for your help in getting an investigation started on the actions taken by this Administration against the New Mexico Mental Health system of care.

As I describe the mental health debacle in NM as it relates to Dona Ana County, the main question that continues to surface is, "Do the ends justify the means?" Of course, the Administration's position was the claim that they were fighting fraud. The means that they employed included a series of actions that have at times broken the law and have at other times appeared, at the very least, shady and clearly did not pass the smell test.

In June of 2013 the suspension of payments to Southwest Counseling Center (SWCC) and Families and Youth, Inc. (FYI) was made official. The suspension of payments was made without any due process and without giving the providers specific justification as to why the NM Human Services Department (HSD) thought that there was fraud. Within three weeks of the allegation of fraud and suspension of payments, SWCC was closed and services were transitioned to La Frontera, Inc., one of the Arizona providers brought in by HSD. FYI lost most of its services to La Frontera within four weeks of the actions by HSD.

SWCC had been the first community mental health center in New Mexico. It had been in business in the community for 50 years and FYI had served the community for approximately 35 years. Combined, the two organizations employed over 300 staff. They delivered services to approximately 4500 un-duplicated clients per year. The consumers SWCC normally served included the severely disabled mentally ill (SDMI) clients who were most in need of services. These clients suffered from mental illnesses such as Schizophrenia, Bipolar Disorder, and Major Affective Disorder. Although the administration contends that there are more clients being served now while



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employing over 170 employees less than before, it is important to note that HSD is not comparing apples to apples. Included in HSD's behavioral health numbers, for instance, are clients that may be prescribed an antidepressant from their PCP. Prior to the commencement of the Affordable Care Act in January 2014, the system had not tracked these individuals and therefore were not included with the providers data. Adding the PCP data to the Arizona provider's data and comparing it to only the client data previously reported by SWCC and FYI is extremely misleading. The clients that both SWCC and FYI served were the most at-risk for danger to self, danger to others, out-of-home placement, and involvement in the judicial system.

Recently the Las Cruces Police Department, as well as some judges, testified before a legislative hearing and clearly indicated that since the actions taken in 2013 the involvement with the judicial system by the mentally ill has sky rocketed. (Please contact LCPD for verification). Also important is the fact that behavioral health hospitals and inpatient psychiatric units in the area report much higher admission rates since 2013. (Contact Memorial Medical Center, Mesilla Valley Hospital and Gerald Champion hospital in Alamogordo for verification.) Gerald Champion is expanding their psychiatric unit to include another wing.

These are the statistics, but the toll to the mentally ill is more difficult to convey and measure. About three months after the transition from SWCC to La Frontera, I was driving down a street in Las Cruces when I saw one of our former clients walking down the middle of the street. Cars were either going around her or honking. I pulled over to the side of the road and walked over and helped her back to the sidewalk. This former client had no idea as to who I was. This was significant because for nearly two years prior, this individual had greeted me with a smile and a "good morning Mr. Roque." I was so angered about the marked deterioration to her condition that I called the Attorney General's office only to be told that they could do nothing about it. To this day that individual has not recovered to the level of functioning that they had enjoyed prior to this debacle. And still other clients were incarcerated and languished in jail during the transition. I was personally involved in facilitating the release of client that had remained in the county jail for almost a year after the transition. (Please watch the documentary Breaking Bonds on You Tube.)

On a daily basis I fielded calls from many previous SWCC employees who had been traumatized by the actions of the state. Most of these individuals were trained professionals that were now dealing with a stressful situation that was difficult to comprehend. I listened to former employees complaining with some crying as they described their experiences. We had formed a family at



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SWCC and I felt I needed to be there for them even though I was also in shock and disbelief and had no answers to provide them.

About two weeks after the suspension of funds, when SWCC could no longer exist, HSD staff walked in to SWCC building along with 15 other staff from CYFD and La Frontera. Diana McWilliams, CEO of the State Collaborative and HSD representative, (conversation that we partially recorded) sat in my conference area and announced to us that it was not only fraud that they were accusing us of but tax evasion, as well as many other illegal activities. (All of their allegations were found to be baseless). The SWCC Board President, Bill Daumueller, asked McWilliams, "If you had such a problem with Roque why didn't you just go to the Board so that we could have taken action against him?" McWilliams appeared stunned by the question and answered, "I don't know". The arrogance with which McWilliams made her pronouncements, as well as, the course of action she outlined for the transition only made her ignorance of the mental health system and how a non-profit organization functions painfully clear.

HSD demanded that all of the client files be released immediately, despite the fact that not all of the SWCC and FYI clients had received services paid through HSD. Some of the client services were reimbursed through private insurance while others were indigent. However, they demanded that all records be turned over to their La Frontera without any client signatures authorizing release. This was in direct violation of 42 CFR Part 2, specifically for those clients being treated for alcohol and/or drug abuse. Additionally, they required that all employee salaries be given to them immediately, which also violated labor laws in New Mexico. This resulted in SWCC violating some laws in order to meet their demands and to keep clients safe, but **how many laws can be broken to justify their actions**. HSD broke privacy laws even in the case of clients covered by private insurances. We had no way to combat them because CMS backed them at every turn. They supposedly were combating fraud so this seemed to make all their actions justifiable. HSD's data copying contractor out of Albuquerque copied all of the client files and then proceeded to send client names and identifying information by unencrypted email, which violated HIPAA. This was yet another action that violated privacy laws, but was apparently overlooked because they were fighting crime.

The time that followed was hectic for both consumers and staff. Many staff were hired by La Frontera but some of the most qualified people were fired or laid off, due to HSD's allegations. What La Frontera soon found out was something SWCC has known for many years -- that there is a serious shortage of qualified staff in the state of New Mexico. Consequently, La Frontera couldn't fill all of the resulting vacant positions. For example, the individual in charge of SWCC's Assertive Community Treatment Team (ACTT) was let go even though they had no one to replace her. An individual with an independent license is required to supervise and run this program.



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ALL OF THE SERVICES REQUIRING LICENSING AND CERTIFICATION WERE GRANTED TO THE ARIZONA PROVIDERS WITHOUT ANY APPLICATIONS. STANDARDS WERE LOWERED. Every program for which SWCC was licensed, such as Pharmacy, CCSS, ACT, PSR, Substance Abuse Treatment, Transitional Living, etc., were all licenses and certifications that had taken SWCC years to earn. Under normal circumstances, it would have taken an agency approximately a year of preparation prior to having licensing and certification granted for programs. However, the Arizona providers were granted these in minutes by the administration. **How is this not a lowering of standards? If the standards are set to protect consumers, how does it benefit anyone to eliminate them? SWCC and FYI had to meet many requirements to get licensed and apparently the Arizona providers met none.** La Frontera even stole SWCC's policies and procedures for the Pharmacy license.

In testimony before legislative committees, the then NM HSD Cabinet Secretary, Sidonie Squier, said that all of the providers were a bunch of crooks and were lining their pockets with taxpayer money. She also said that there were many whistle-blowers for each agency (For SWCC we found later there was one consumer that said he thought we were billing for services we didn't deliver). There was no proof to substantiate this client's claim. There were no other whistle blowers for SWCC. So they lied again. But lying isn't against the law and, of course, they were fighting crime.

On a personal basis, from the start it was apparent that I was a target of HSD. I wrote a letter to the editor that appeared online and in the local newspaper. The letter began "Let me first start by calling the Governor a liar....". Maybe I shouldn't have started off that way but it was a truthful statement as to what she was saying. After that letter HSD began a concerted effort to slander me personally. In front of a legislative committee in Las Cruces, HSD representatives said I used Medicaid money to buy an airplane, go on vacations, and received a huge salary. I could disprove all of the allegations but I was up against the Governor's political machine. The administration made statements on the radio and the Governor herself went on TV implying I was stealing money. Completely false information was passed on to the news media and the news media only fact-checked what they wanted. Much of the information was blatantly false. For example, they kept saying that SWCC had lent me Medicaid money to buy an airplane. This was not true. They never mentioned that toward the end of June 2013, I had personally taken out a loan after our funds had been frozen, so that we could meet payroll for SWCC.

My reputation was ruined. I could not find a job in the health care field anywhere in the country because of the egregious allegations. This left me with no choice but to move out of state find



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employment in a different field. I did not have the money to pay for any advertising to correct the issues so I was at the mercy of the reporters. The Albuquerque Journal was the worst followed closely by KOB TV. Both of these media sources provided HSD and the Governor the full benefit of the doubt and did not question the information. I wrote a letter to the Attorney General's office (AGO), that I made public, begging them to come and investigate our agency on all the allegations ASAP. I even went to the AGO office and met with the FWA director and asked him and his deputy to investigate all of the allegations. I explained to them that I knew that there were probably billing errors that would be discovered but I was confident that there was not any fraud. Of course, we were not investigated until much later and did not find out the results until February of 2016.

HSD also presented a convoluted flow chart that showed all our related corporations. What they did not tell the public was that our organizational structure had always been fully disclosed, it was completely legal, and that the Arizona companies had many more interrelated and complex corporations than we ever did. What is now apparent is that this was a public relations campaign run by the state against private individuals and long-standing organizations. The fact that this was carried out at significant harm to our mentally ill population, who represent some of the most vulnerable in our society, is unconscionable.

New Mexico has consistently struggled with its high suicide rate. It has now gone from the 6th to the 3rd highest in the nation. In addition, there are now less qualified staff to provide services especially in the rural areas. The actions taken by HSD have negatively impacted individuals and our state. Even with a concerted effort, it will take years to repair the costly damage that has been done. In some cases such as the toll to many New Mexico clients and their families, damages can never be repaired.

The breaking of privacy laws, the lowering of the standard of care, the use of public monies to fund a personal campaign of slanderous allegations, violation of the purchasing act, the lack of any due process, the traumatizing of clients and employees... these tactics were employed by the administration with the battle call of, "We were fighting fraud." But there was no Fraud.



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Sincerely,

A handwritten signature in black ink that reads "Roque Garcia". The signature is written in a cursive, flowing style.

Roque Garcia, C.E.O.
Southwest Counseling Center, Inc.