

DisabilityRights

ARKANSAS

Tom Masseau, Executive Director

January 26, 2017

Betty Guhman, Director
Arkansas Division of Youth Services
P. O. Box 1437, Slot S-501
Little Rock, AR 72203-1437
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RE: Abuse and Neglect at Juvenile Treatment Centers and Juvenile Correctional Facility Operated by DYS

Dear Ms. Guhman:

I am writing on behalf of Disability Rights Arkansas to bring to your attention the conditions and lack of treatment at the six Arkansas juvenile treatment centers operated directly by the State of Arkansas. We are concerned, on behalf of the youth committed to these facilities, that the conditions and lack of treatment in these facilities violates the rights of the youth, including their state and federal rights to rehabilitation, treatment and education.

Disability Rights Arkansas (DRA) has monitored the treatment and conditions of youth at the juvenile treatment centers in Dermott, Lewisville, Colt and Harrisburg and the juvenile correctional facility in Dermott which are part of the Division of Youth Services (DYS) system and currently operated by the State. Our monitoring over this last month has revealed a complete lack of mental health therapy for youth at these facilities,¹ a lack of other needed treatment (including substance abuse, anger management), critical shortages of staff at the facilities, a failure to provide required and necessary education to youth in the facilities and deplorable, unhealthy physical facility conditions.

Some of our findings are summarized below. In addition to revealing a failure of the State to follow its own policies and State law with respect to treatment that is to be provided, these findings raise serious concerns about the safety and well-being of the youth committed to the facilities. We have found that the youth in the identified five facilities are being neglected at a minimum and believe that due to the dire condition and circumstances at the facilities, the neglect rises to the level of abuse.

¹ The only exception to this was a part-time therapist at Harrisburg, providing limited therapy to a few youth who are sex offenders.

We have been told that DYS is working to resolve these issues and obtain mental health therapists from existing community mental health centers, but these efforts are being hampered by the State procurement process. Moreover, there does not appear to be any plan to make the therapies needed for the committed youth available within any reasonable time frame. We are concerned that the existing Community Mental Health Centers already are overburdened with clients and demands from their communities and this plan will not result in the State providing the consistent, on-site, expert therapy that is needed to address the youth's needs for rehabilitation and intensive treatment. We also have been told that the State has imposed a hiring freeze on the facilities that does not even allow for replacement of staff who left when the State took over the facilities at the end of 2016.

While we realize the State has bureaucratic issues to resolve, we question the speed and adequacy with which these efforts are taking place, as well as the effort to ensure access to quality care that the youth deserve. The youth have a right not to be held and deprived of their liberty by the State in conditions that are contrary to Arkansas and federal law. They have that right today, not three months from now.

Therapy

Since the announcement that the State would be providing services directly at six of the treatment centers, all five facilities monitored by DRA have not had mental health therapists to provide therapy to the youth. The youth have now gone without individual, group, and family therapy for more than a month. In addition, youth have no access to substance abuse or, when needed, sexual offender treatment.²

This lack of therapy is troubling for multiple reasons. Youth have been committed to secure residential facilities for the purpose of receiving treatment and rehabilitation. Most of the youth in the facilities have disabilities that include mental health conditions. Many have behavioral issues. The lack of therapists for the last month has not only deprived youth of treatment but created a dangerous situation at the facilities which now lack the professional staff to address the mental health and behavioral needs of the youth.

This danger and the rising tension at the facilities were apparent during our monitoring visits. Youth feel concerned that they are being held without any opportunity to complete the treatment which will lead to their release. Youth feel like they are trapped in a bad situation without any hope. Staff without professional mental health expertise and support are attempting to defuse behaviors and are stressed by the lack of support.

Education

In addition to the absence of mental health therapy, the facilities lack fully functioning schools and educational programs for the youth.

² This compounds the complete lack of therapy for youth committed to DYS custody occurring while they wait for months for placement in a DYS treatment center at Juvenile Detention Centers.

At Lewisville, monitors observed students in both classrooms watching movies, including the math class viewing a documentary on lions. Youth report frequently watching movies in class. A teacher reported that although he is supposed to be teaching algebra, most of the students do not know basic multiplication and division. The history and economics teacher reports that she uses books that are approximately ten years old. Teachers appeared overwhelmed and largely unfamiliar with their students.

At the Dermott Juvenile Correctional Facility, most youth were observed in their unit common spaces, playing video games, watching movies, or otherwise not in school or educationally engaged. There is a shortage of teaching staff at the Facility. Due to State-imposed hiring freezes, the teaching positions have not been filled.

At the Dermott Juvenile Treatment Center, staff also reported a lack of teachers. Despite a school schedule of 8 AM to 2 PM, staff and youth reported that there are not enough teachers to provide instruction throughout those hours. Youth attend only three or four periods a day where they receive instruction and then have "electives," which as described by staff and youth alike consists of playing hangman, sitting around, and sometimes going outside when the weather allows.

For those youth enrolled in the GED program at the facilities, there is another serious problem. Monitors were advised that GED tests and practice tests are not being purchased and, as a result, students otherwise ready are not receiving or progressing toward attainment of their GEDs when that is their educational plan.

For more than two years, Disability Rights Arkansas repeatedly has raised concerns regarding the severe under-identification of students with disabilities in DYS custody and requested action by the State. Despite these concerns and request for action, the State has failed to fulfill the child find mandate of the Individuals with Disabilities Education Act (IDEA) and continues to completely disregard the requirements of Section 504 of the Rehabilitation Act.

The failure to identify youth with disabilities has important consequences for youth, including in their ability to successfully transition out of the facilities and succeed in the completion of their education and any post-secondary opportunities.

At most of the facilities, staff report that youth are not identified and there is a lack of process and resources to obtain the type of comprehensive evaluation needed for identification under the IDEA and Section 504. At Lewisville, staff reported a "quota" on special education, advising that they only allow a maximum of seven to eight students to receive special education, regardless of the need.

The lack of educational opportunity has long been a problem at these facilities. The problem has worsened since the State took over operations, leading to greater educational deprivation. This violates the youth's rights under state and federal laws and is contrary to the requirements of the youth's treatment plans developed by the State.

Understaffing

Lewisville and Dermott JTCs lack adequate numbers of staff to provide direct care and supervision to the youth. Staff at both facilities reported being seriously understaffed. At both, staff reported that hiring freezes, as well as the lack of a promised increase in pay, was contributing to staffing shortages and poor morale at the facilities.

At Lewisville, the facility had employed 45 staff before the State assumed operations. Even with 45 employees, the facility was arguably understaffed given the size and needs of the resident population. However, since mid-December, the facility has lost 13 staff and at the time of our monitoring was down to 32 staff. Facility staff are being asked to work unpaid overtime and 12 hour shifts. Lewisville also lacks an on-site nurse and has only one vehicle authorized to transport youth, resulting in numerous delays for court and medical appointments.

At the Dermott Juvenile Treatment Center, chronic shortages of staff were also reported. This has been a longstanding problem at the Dermott facilities which has been exacerbated by the current situation. Staff shortages at this facility are occurring during the first and second shifts, reducing the staff to youth ratio to a dangerous level that does not allow for staff to properly implement safety procedures. The youth at the facility are well aware that staff shortages exist.

Understaffing is particularly dangerous in treatment centers, puts youth at risk of physical violence, and has the potential to allow for a riot-like situation to occur. This is a problem with which DYS ought to be familiar, given that understaffing at this Dermott facility has resulted in significant youth injuries and a riot in the recent past.

Living Conditions

To put it plainly, the facilities in which youth are confined at Lewisville and both Dermott facilities are deplorable and not conducive to rehabilitation. The living units lack basic levels of cleanliness and are draconian in their sparseness. The youth are provided only with hard, inadequate pads as mattresses that are "like sleeping on a rack." Much of the bedding is thin and many torn. At every facility, all the units possess structural features that result in a severe lack of privacy. Toilet stalls lack any kind of door or sheet, as do showers. Many of the bathrooms and showers reeked of human waste and displayed mildew. Most windows lack blinds, drapes, or covers.

At Lewisville, monitors observed cracked windows, a grievance box is broken in pieces, and individual youth rooms are missing doorknobs.

At the Dermott Juvenile Correctional Facility, the commons spaces and individual rooms have characteristics of an institutional setting: cement walls and desks, fluorescent lighting, and fixed furniture. Many individual rooms have an odor of urine and uncleanness. One youth showed monitors his room, which has not had a working light for some time. A live mouse was observed trapped in the overhead lighting in the administrative building that also includes youth living quarters. A DRA monitor observed the mouse, notified the three staff in the room, and the staff

responded that the mouse likely would just remain trapped there and was a relatively common occurrence given the location of the facility.

At the Dermott Juvenile Treatment Center, the youth are housed in three separate dorm rooms within a single building. Ten to eleven youth are housed in each room. There is a single urinal, toilet, and shower for each dorm. At the time of the monitoring visit, there was standing water in the bathroom area which was due to a plumbing leak. Staff reported that the facility had not had a plumber come out to fix the leak. Moreover, staff reported concerns about the homemade wooden trunks in the dorm rooms which are not secured to the floor or metal bed frames and present a safety risk.

At the Colt Juvenile Treatment Center, the facility is heated by propane. Staff reported that they are concerned that when the current supply is exhausted, they will be unable to obtain replacement propane due to delays in the State procurement process.

Transition and Discharge Planning

Multiple youth have been in DYS custody and secure residential confinement for periods far beyond their initial length of stay. Many have reportedly completed their treatment plans yet have not been discharged; a claim corroborated by case managers. Most youth report not having discussed discharge planning with DYS or provider staff, and several report unresponsive DYS trackers. Youth without a family to return to often languish in confinement for months on end, even after completing their treatment plans.

Shackling and Restraints

At Dermott Juvenile Treatment Center and Lewisville, youth are restrained and placed in shackles and handcuffs when a physical fight occurs. At Lewisville, youth are taken outside after being mechanically restrained until they are calm. Youth report being held outside for hours, even in inclement weather. According to South Arkansas Youth Services policy, which is reportedly still in effect, mechanical restraints are only to be used as a last resort. This practice of automatically placing a youth in mechanical restraints anytime there is a physical fight is out of compliance with this policy.

Conclusion

The situation at the State-operated juvenile treatment facilities is one that demands immediate action by the State to rectify. The ongoing daily violations of the rights of the youth committed to these facilities is unacceptable. DRA has hoped that the State would ensure that the conditions, treatment, education and other problems at these facilities would improve over time. However, at this point, things have only worsened for the youth in the six operated facilities.

We are requesting an opportunity to meet with you to discuss our concerns and demands on behalf of the youth in connection with the conditions, lack of treatment and education and other problems at the facilities.

Sincerely,



Debra Poulin
Legal Director

Cc: Governor Asa Hutchinson
Judge Troy Braswell, Chair, Youth Justice Reform Board
Members, Youth Justice Reform Board
Tom Masseau, Executive Director, Disability Rights Arkansas