

Disability Rights IOWA

Law Center for Protection and Advocacy™

TO: Charles Palmer, Director, Iowa Department of Human Services (DHS)
Vern Armstrong, Division Administrator of Field Operations, DHS
Wendy Rickman, Division Administrator of Adult Children and Family Services, DHS
Richard Schultz, Division Administrator of Mental Health and Disability Services, DHS
Gretchen Kraemer, J.D., Assistant Attorney General

FROM: Nathan Kirstein, J.D., and Jane Hudson, J.D., Disability Rights Iowa

DATE: March 2, 2016

RE: DRI's Investigation of Copper Lake School for Girls in Wisconsin

Disability Rights Iowa (DRI) visited the Copper Lake School for Girls (Copper Lake) in Wisconsin on February 5, 2016 with Disability Rights Wisconsin (DRW). This visit was in response to multiple stories in the media regarding the investigation by the DOJ of allegations of abuse and neglect reported to have occurred at this facility. (See DRI's 1/20/16 e-mail to DHS - attached). The purpose of this visit was to check on the safety of Iowa's four girls sent to this facility and take necessary actions to ensure their safety. DRI was joined by an attorney, John Sandy, from Iowa who was following a court order to visit his client at the facility and report back to the court his observations of the facility as the judge was concerned about what she was hearing in the media. During the visit, DRI and DRW interviewed three of the four Iowa girls and Mr. Sandy interviewed the remaining girl that was his client. DRI and Mr. Sandy also interviewed some of the administration and staff for Copper Lake.

DRI Observations of Copper Lake

Copper Lake is located in Irma, Wisconsin on the same campus as the Lincoln Hills School for Boys and is operated by the Wisconsin Department of Corrections (DOC). Administration and staff are shared amongst the facilities and the boys and girls go to the same school. A tall fence with barbed wire surrounds the facility and another one separates the girls' living quarters from the boys.

DRI was able to observe both of the girls' living units. One of which is a living unit that contains their "Restrictive Housing Unit". The "Restrictive Housing Unit" is where the solitary confinement rooms are located. The solitary confinement rooms have a steel bed frame that sits about twelve inches off the ground. There are no other amenities. Only one book is allowed into the room. The steel door remains locked while the girls are in the room and food is slipped through the tray slot on the door during meal times. There is no toilet or sink provided in the rooms and urine stains can be observed on the floor.

The general population rooms (the remainder of the rooms in the girls' living units) are similar to the confinement rooms except the girls are allowed to have personal belongings and decorate their rooms. They also have a desk and chair. They are single rooms whose steel doors are locked when the girls are

in their rooms. The temperature was cold in the living unit and a coat was worn the entire time of the visit in order to stay warm.

There is a classroom type setting in the "safety unit" living area in which the staff stated that the girls receive direct instruction when they are in solitary confinement during their time out of confinement each day. This classroom was observed and seemed to be set up for instruction.

DRI Concerns with Iowa Girls' Treatment at Copper Lake

The following girls from Iowa were interviewed at Copper Lake on February 5, 2016:

- DRI and DRW interviewed [REDACTED] and [REDACTED]
- Mr. Sandy interviewed [REDACTED]

DRI has the following concerns after interviewing the girls and discussing issues with Mr. Sandy, LR's attorney:

- Two of the Iowa girls are considered possible victims of a crime according to the DOJ investigators and the investigators are following up on the following incidents:
 - [REDACTED] was physically restrained by four male staff (one holding each limb), carried faced down into a solitary confinement cell, and had her head rammed against the wall of the cell a few times while in that position.
 - [REDACTED] had her head and face slammed against the wall in a solitary confinement cell causing bruising and swelling on her face. She also had a male staff member stand on her bedframe above her head while her head was under the frame in order to place pressure on her head while a staff psychologist asked the staff member to stop but he would not listen to the girl or the psychologist. Also, she has scarring on the tips of her fingers due to a staff smashing her fingers in the steel food slot on the door of the confinement room.
- [REDACTED] and [REDACTED] have been placed in solitary confinement for a month to several months at a time. Most of their time in solitary confinement was on a daily schedule of twenty-three hours in confinement and one hour out of confinement for hygiene. Very little direct instruction time was provided for education during this time. These three girls also reported urinating themselves while in solitary confinement as they were not allowed to leave their rooms to use the bathroom in a timely manner.
- [REDACTED] attorney reported that [REDACTED] has exhibited self-harming behavior and suicide attempts during her placement at Copper Lake. She has never exhibited these types of behaviors before and is being given more solitary confinement time as a result without any intensified therapeutic interventions.
- [REDACTED] reported being kicked by a staff member while she was in solitary confinement.
- [REDACTED] reported that she has not been receiving appropriate mental health treatment for her multiple diagnoses and has experienced peer to peer bullying that the staff has not addressed. This has caused her to feel suicidal at times.
- All of the girls reported writing grievances that have not been addressed by the staff or administration.
- All of the girls reported a daily schedule of an hour in their general population rooms alternating with an hour out of their rooms during the time they were not in school. Their nightly room

time depends on levels. Level 1: The girl must be in her room by 7:30 pm. Level 2: The girl must be in her room by 8:30 pm. Level 3: The girl must be in her room by 9:30 pm. The doors are locked at all times the girls are in their rooms and they have to push a button in their room to request the staff unlock their door if they need to use the bathroom.

- All of the girls reported that they were only attending school twice a week (Tuesdays and Thursdays) until the DOJ investigation began.
- All of the girls reported that the living unit is cold and that the solitary confinement rooms are even colder.
- All of the girls reported that the staff required the following procedure in order to contact their attorney: The girls must write a handwritten letter and give it to the staff member, she will take it, scan it, and send it to the girl's attorney via e-mail requesting the attorney call his/her client. When the attorney calls, the staff member sits in the office with the girl. This procedure does not provide for any type of confidentiality between the client and attorney. This was discussed by DRI and DRW with the administration to have them change this practice immediately.
- According to the girls who had IEPs, there was a lack of individualization and lack of implementation of the IEPs while they were in solitary confinement. Therefore, there appears to be Individuals with Disabilities Education Act (IDEA) violations occurring at this facility.
- None of the girls have committed a violent felony in the community.

DRI Recommends Termination of the Copper Lake Contract

DRI reviewed the DHS Contract ("Contract") with the Wisconsin DOC. The Wisconsin DOC is to provide the contracted services for \$301 per bed, per day. (1.3.4). According to the Contract, "[t]he Contractor shall provide Juvenile confinement that affords Juveniles with a safe and protective setting where they can thrive and not commit Delinquent acts." (1.3.1.1). Furthermore, the "Contractor will make every effort to prevent abuse and neglect of all juveniles under their supervision and care." (1.3.1.11). This requirement is directly linked to the Contractor's performance measures in which "[t]here will be no cases of abuse or neglect by the Contractor, Subcontractor, volunteer, or by other juveniles in the Facility." (1.3.2).

Notably, the Contract does not require the facility to follow Iowa laws in regards to the treatment of Iowa's youth, including the use of restraint and seclusion. (1.3.1.6-7). Wisconsin's regulations on the use of force against youth and the use of solitary confinement give much broader authority/discretion to the staff than any of Iowa's laws and have much less protections for the youth in such facilities. (See Wisconsin DOC Regulations - DOC 373 to 376).

The contract also requires monthly visits by the family, the offering of an array of services (including mental health), and the offering of educational services that comply with the federal laws. (1.3.1.13, 1.3.1.14, and 1.3.1.17). The contract manager or designee is to ensure progress and performance on this contract on a quarterly basis. (1.3.3).

In light of the media reports regarding the open DOJ investigation into allegations of abuse and neglect at the Lincoln Hill and Copper Lake facilities, the reports noted above from the February 5, 2015 interviews of the Iowa girls, and the DRI observations of the facility; the services required by the Contract are not being performed and our Iowa girls' life, health, and safety are being jeopardized. Furthermore, the Contract allows for a much broader use of force and solitary confinement than what

was allowed by Iowa law at the IJH/GSTS. These are the very issues that occurred at the IJH/GSTS, a DHS operated facility, provoking an emergency response from the Governor that eventually led to that facility's closure. Since, DHS is legally charged with ensuring compliance of this contract and taking appropriate actions to ensure the safety of our Iowa youth, DRI is recommending a full review of these issues and termination of the contract with the Wisconsin DOC.

DRI Recommends Continued Reform of Juvenile Justice System in Iowa

This report is continued evidence that Iowa needs to reform its juvenile justice system to build the infrastructure to keep all of Iowa's court-involved youth in Iowa unless it is absolutely necessary to send them to specialized treatment out of State. DRI understands this will take time and urges DHS to continue to work toward such ends.

In order to allow for a safe environment for our court-involved youth, DRI recommends that DHS do the following as an interim approach to system reform:

- 1) Terminate the contract with Copper Lake while ensuring that there is time for the three Iowa girls (K.B., R.R. and T.D.) still placed there to find appropriate placements. "Appropriate Placements" should not include the use of county detention facilities for long-term placement. Note: PRC was court ordered to a placement in Iowa because of the DOJ investigation of Copper Lake.
- 2) Ensure the Iowa Regulations (IAC 441-103) for our State Training School are similar to the Juvenile Detention Alternatives Initiative's (JDAI) Juvenile Detention Facility Standards. At this time, there are no regulations for the State Training School that governs the use of restraint or seclusion (IAC 441-103).
- 3) Ensure all contracts with out-of-state facilities are required to follow Iowa law regarding the use of physical, mechanical, and chemical restraint. The Wisconsin regulations allow for a broader use of restraints than what was allowed at IJH/GSTS, including the use of "pepper spray".
- 4) Ensure all contracts with out-of-state facilities are required to follow Iowa law regarding the use of seclusion (including ALL forms of solitary confinement). The Wisconsin regulations allow for a broader use of seclusion than what was allowed at IJH/GSTS, including the use of confinement for talking back to staff. Furthermore, Wisconsin regulations allow for time periods of solitary confinement for much longer times than what was allowed at IJH/GSTS.
- 5) DHS contracts with treatment providers located in Iowa need to be revised to allow for placement options for Iowa's youth, including "no eject, no reject" requirements. If DHS is willing to pay \$301 per bed, per day to send girls to Copper Lake (1.3.4), then DHS should be willing to pay similar rates for treating such youth in Iowa provided beds.

DRI will be reviewing records for the remaining Iowa girls and contacting their juvenile court teams to discuss the findings and transition plans for the girls. DRI would also like to know of any of any DHS' concerns regarding Copper Lake that have been formulated from their quarterly progress and performance reviews on the Contract with the Wisconsin DOC. DRI requests an immediate meeting with DHS to discuss this report and the recommendations in order to ensure our Iowa girls' safety.