

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: June 10, 2016

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

This is a follow-up Memo regarding DRI's investigation of the Copper Lake School for Girls in Wisconsin. DRI sent an initial memo to DHS in regards to this investigation on March 2, 2016. This memo was followed by a meeting with DHS on March 10, 2016 and a meeting with DHS and David Boyd on March 21, 2016. DRI has appreciated DHS's willingness to meet with DRI and work towards the recommendations provided in the initial memo. This memo is to update the status of these recommendations and ask for confirmation and plans for moving forward on some of the recommendations. For reference, the initial recommendations from DRI are as follows:

Initial DRI Recommendations:

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 ([REDACTED] and [REDACTED]) 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

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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.

Status of DRI Recommendations:

According to our discussions with DHS, David Boyd, our reviews of records, our conversations with an attorney for one of the girls, and Disability Rights Wisconsin, the following is an update to our recommendations:

- 1) DHS has terminated the contract with Copper Lake and has worked with the courts to provide appropriate placements for three of the four Iowa girls [REDACTED] and [REDACTED] that were placed at the facility.
- 2) DHS agreed to look into the JDAI standards for use at the State Training School in Iowa but has not provided any updates on this action. At this time, the regulations remain the same which means there remains no State regulations regarding the use of restraint or seclusion at the State Training School. (IAC 441-103).
- 3) DHS agreed to write this recommendation into contracts that DHS has with other out-of-state facilities. However, DHS has not confirmed this has occurred.
- 4) DHS agreed to write this recommendation into contracts that DHS has with other out-of-state facilities. However, DHS has not confirmed this has occurred.
- 5) DHS has confirmed that the new RFP's will have "no eject, no reject" requirements and that enhanced payment options will be available to providers for them to be able to serve higher need youth.

DRI appreciates the progress that DHS has made on DRI recommendations #1 and 5. This has ensured safety not only for the girls that were placed at Copper Lake but for all youth in our juvenile justice system.

Please provide DRI with written confirmation and written plans to move forward on DRI recommendations #2, 3, and 4. Also, DRI is requesting the list of all DHS contracted out-of-state facilities and the contracts for them as a public records request pursuant to Iowa Code Chapter 22. Please provide this information to DRI by no later than June 30, 2016.

Once again, thank you for working with DRI to ensure the safety of all our youth involved with the Iowa juvenile justice system. We look forward to your response.

CC: David Boyd, State Court Administrator, Iowa Judicial Branch

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Gretchen Kraemer, J.D., Assistant Attorney General

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

DATE: July 5, 2016

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

This memo is a response to Iowa Department of Human Services (DHS) responses to DRI dated July 1, 2016 regarding the status of DRI's recommendations resulting from the investigation of Copper Lake School for Girls in Wisconsin. The initial recommendations are included to ensure clarity:

Initial DRI Recommendations:

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 [REDACTED] and [REDACTED] 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

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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.

Status of DRI Recommendations:

According to the DHS responses dated July 1, 2016, DHS has completed or has confirmed plans to complete #1, 3, 4, and 5 of DRI's recommendations. However, DHS has declined to follow through with DRI's recommendation #2 regarding regulations for the State Training School with the reasoning that the school is accredited by the American Corrections Association (ACA) and has internal policies that meet the ACA standards.

DRI does not agree with the DHS response to DRI's recommendation #2. Iowa's current law regarding the State Training School does not provide for any regulations regarding the use of any type of restraint or seclusion at the facility. Therefore, how can an out-of-state facility that is a State Training School facility comply with Iowa law per recommendations #3 and #4? If the state contracts with another out-of-state State Training School as was done with Copper Lake, the State will find itself in a similar situation that was the partial cause of this investigation which is: there will be no Iowa law governing the use of restraint and seclusion in the State Training School and therefore the out-of-state facility will not be bound to any law in regards to the same issues that caused concern for the safety of the girls in the Copper Lake facility. This does not ensure safety for any of our youth sent out of state to such facilities.

Furthermore, the lack of regulations in regards to the use of restraint and seclusion does not keep our youth placed at the State Training School in Iowa safe. The argument that we do not need State regulations because the State Training School is accredited by the ACA is flawed. First, this accreditation is not required by State law, it is strictly voluntary and therefore if there is any lapse or accreditation issues based on not meeting the standards, there is no penalty or incentive to remain accredited or to remedy the issues. Second, the ACA standards with regards to restraint and seclusion are less stringent than all other facilities that house youth in our juvenile justice system, including our detention facilities. Third, since there is no regulations and the State law exempts the State Training School from licensure, there is no legally required third party oversight or enforcement body besides DHS who is the entity in charge of the State Training School. Fourth, the ACA's standards with regards to the use of restraint and seclusion are not as stringent as the standards under the recommended JDAI which has been nationally recognized by the OJJDP. Lastly, when there is a violation of the ACA standards there is no in-state complaint process for the individual negatively impacted by the violation besides the internal DHS investigation which is a conflict of interest. Therefore, the lack of these regulations in the State of Iowa continues to place our youth in State custody at risk of harm similar to the harms suffered by youth at the IJH/GSTS facility as there are similar issues with lack of oversight, licensure, and regulations.

For the above stated reasons, DRI is requesting that DHS reconsider its response to DRI's recommendation #2 and provide a response by no later than July 8, 2016. DRI appreciates the progress that DHS has made on DRI recommendations #1, 3, 4, and 5. This has ensured safety not only for the girls that were placed at Copper Lake but for all youth in our juvenile justice system.

Once again, thank you for working with DRI to ensure the safety of all our youth involved with the Iowa juvenile justice system. We look forward to your response.

CC: David Boyd, State Court Administrator, Iowa Judicial Branch