

September 9, 2005

The Honorable Mitch Daniels
Governor, State of Indiana
Office of the Governor
State House, Room 206
Indianapolis, IN 46204-2797

Re: Investigation of the Logansport Juvenile
Intake/Diagnostic Facility, Indiana

Dear Governor Daniels:

I am writing to report the findings of the Civil Rights Division's investigation of conditions at the Logansport Juvenile Intake/Diagnostic Facility ("Logansport"), located in Logansport, Indiana. On February 10, 2004, we notified you of our intent to conduct investigations of Logansport and two other juvenile correctional facilities, the South Bend Juvenile Correctional Facility ("South Bend") and the Plainfield Juvenile Correctional Facility ("Plainfield"), pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 ("CRIPA"), and the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141").¹ At that time, we informed you that our investigation of Logansport would focus on the provision of mental health care. As we noted, both CRIPA and Section 14141 give the Department of Justice authority to seek a remedy for a pattern or practice of conduct that violates the constitutional or federal statutory rights of children in juvenile justice institutions.

On May 10-11, 2004, we conducted an on-site inspection of Logansport, accompanied by an expert consultant in mental health care. We interviewed mental health providers and other staff, youth residents, and facility administrators. Before, during, and after our visit, we reviewed an extensive number of documents, including policies and procedures, mental health records, youth detention records, unit logs, and orientation

¹ Our findings regarding South Bend and Plainfield are provided separately, but are referenced in this letter.

materials. Consistent with our commitment to provide technical assistance and conduct a transparent investigation, at the conclusion of our tour, we conducted an exit conference with facility staff and Indiana Department of Correction ("IDOC") officials, during which our expert consultant conveyed his initial impressions and concerns.

At the outset, we commend the staff of Logansport for their helpful, courteous, and professional conduct throughout the course of this investigation. We also wish to express our appreciation for the cooperation of IDOC officials and staff.

Consistent with our statutory obligation under CRIPA, we now write to advise you of the results of our investigation, the facts supporting them, and the minimum remedial steps that are necessary to address the deficiencies we have identified. As described below, and in the findings letters also issued today in regard to South Bend and Plainfield, we conclude that youths confined within these facilities suffer harm or the risk of harm from constitutional deficiencies in the system's mental health services.

I. BACKGROUND

Logansport is an 84-bed maximum security facility which serves as the IDOC's intake facility for all males between the ages of 12 and 18 who are committed to IDOC's Juvenile Services Division. The facility is comprised of one self-contained building with an average daily population of 59 youths. Generally, juveniles received at Logansport undergo a 13-day intake process. According to Logansport officials, during this intake period each youth undergoes a physical examination; dental, vision and hearing screenings; an intellectual and educational assessment; a risk and needs assessment; a substance use assessment; a crimino-psychosocial history; and, if deemed necessary, is referred to a psychiatrist and/or psychologist. At the conclusion of the 13-day intake process, juveniles are classified and transferred to one of seven IDOC-operated juvenile treatment facilities, including South Bend or Plainfield, or to one of four privately-operated facilities.

II. FINDINGS

As a general matter, States must provide confined juveniles with reasonably safe conditions of confinement. Youngberg v. Romeo, 457 U.S. 307 (1982); Nelson v. Heyne, 491 F.2d 352 (7th Cir. 1974). Such constitutionally mandated conditions include the right to adequate mental health care. Youngberg,

457 U.S. at 323, n.30; Nelson, 491 F.2d at 360. See also A.M. v. Luzerne Cty. Juvenile Detention Ctr, 372 F.3d 572, 585 n.3 (3rd Cir. 2004). Neither the Supreme Court² nor the Seventh Circuit³ has determined definitively whether the Eighth Amendment or the Fourteenth Amendment provides the governing constitutional standard for conditions in juvenile facilities. For purposes of this letter, we need not resolve which standard governs because we find that the mental health care at Logansport is so egregious that it violates even the more stringent Eighth Amendment standard.

Logansport's mental health services focus primarily on initial screening and assessment to identify emergent mental health issues and psychopharmacological treatment needs.⁴ Because of the short duration of stay at Logansport, treatment, monitoring, and follow-up assessment for mental health issues identified at Logansport must occur at the youths' treatment facility. Based on our review of mental health care at Logansport, and our review of follow-up care at South Bend and Plainfield, we find that certain aspects of the care provided at Logansport are constitutionally inadequate. Specifically, we find that Logansport fails to provide adequate psychopharmacological services. Additionally, while Logansport's mental health screening and assessment services meet minimum constitutional standards of care, we note here the need for systemwide coordination of services to ensure that required additional screening and assessment occurs at the youths' treatment facility.

A. Psychopharmacological Services

² See Ingraham v. Wright, 430 U.S. 651, 669 n.37 (1977) (Although holding that the Eighth Amendment is inapplicable to the paddling of schoolchildren, the Court declines to consider whether the Eighth Amendment applies to conditions in juvenile institutions).

³ In Nelson, the Seventh Circuit held that the State violated the Eighth Amendment rights of confined juveniles by administering abusive corporal punishment and forced tranquilizing medication, but violated their Fourteenth Amendment rights by failing to provide them with minimally acceptable rehabilitative treatment. 491 F.2d at 357; 360.

⁴ Psychopharmacological treatment refers to the use of psychotropic medications to control symptoms of mental illness.

When a youth is admitted to Logansport and reports that he is currently receiving psychopharmacological treatment, he is typically permitted to finish whatever medication he has with him at the time of intake. If the youth reports that he is currently receiving psychopharmacological treatment but does not have any medication with him, then the intake nurse will refer him to the psychiatrist, who will meet with the youth within seven days. In either scenario, however, unless the youth is overtly exhibiting the symptoms the medication purports to treat, medication is automatically discontinued once the youth's personal supply has been exhausted.⁵ Logansport's psychiatrist reports that the purpose of this discontinuation practice is to institute a "wash-out" period. A wash-out period is a medication-free time during which, in theory, the mental health professional will monitor the youth's behavior and assess whether any psychopharmacological treatment is appropriate.

A wash-out period, if implemented appropriately, can be a useful diagnostic tool for ensuring the appropriate use of psychotropic medications. However, in order to meet generally accepted professional standards of care,⁶ a youth who undergoes a wash-out period must be carefully monitored and assessed by a qualified mental health clinician before, during, and after discontinuation of the medication in order to determine whether a return to medication is warranted. Without adequate monitoring and assessment throughout this time, youths are exposed to a number of potential harms. Most obviously, youths whose mental health needs are not adequately identified and treated may suffer mental distress and anguish, as well as an increased risk of suicidality. Additionally, the youths are less likely to be able to successfully complete the rehabilitation program, a requirement for release from the treatment facility. Moreover, youths with unmet mental health needs are more likely to

⁵ In interviews during our visit, Logansport's psychiatrist stated that it was his understanding that the discontinuation of psychotropic medications once a youth exhausts his personal supply is mandated by IDOC policy. IDOC's medical director, however, stated that no such policy exists. Thus, the origin of this practice remains unclear.

⁶ In assessing the constitutional adequacy of mental health care practices at Logansport, we must consider whether professional decisions substantially depart from accepted professional judgment. See Youngberg, 457 U.S. at 323; Estate of Cole v. Fromm, 94 F.3d 254, 262-63 (7th Cir. 1996) (deriving the standard for assessing the adequacy of mental health care provided to pretrial detainee from Youngberg).

demonstrate unacceptable behaviors that elicit punitive responses from staff.

We find that Logansport's wash-out practice, as implemented across the treatment facilities we investigated (Plainfield and South Bend), is constitutionally inadequate. Specifically, youths whose medications are discontinued at Logansport are not adequately monitored and assessed after the medication is discontinued to determine whether there is a need to resume the psychopharmacological treatment. Because residents are transferred out of Logansport shortly following the discontinuation of medication⁷, the bulk of the requisite monitoring and assessment would occur at the treatment facilities to which the youths are transferred. In our concurrent investigations of South Bend and Plainfield, we find that such monitoring and assessment generally fail to occur. See South Bend Findings Letter at 11 and Plainfield Findings Letter at 14.

B. Mental Health Screening and Assessment

We also find that although Logansport adequately identifies juveniles who are overtly suicidal, its screening and assessment practices are not comprehensive or sensitive enough to identify a number of other serious mental health issues. In particular, Logansport's screening and assessment services fail to identify juveniles with internalized symptoms of mental illness such as juveniles with depression who are not actively suicidal, those with post-traumatic stress disorder, and some youths with psychoses.

In light of the short duration of stay at Logansport, the facility's practice of screening for only the most emergent mental health needs is minimally adequate. However, once the

⁷ We also find the characterization of IDOC's medication discontinuation policy as a diagnostic wash-out period to be problematic. The fact that youths entering Logansport are permitted to finish whatever quantity of medication they may happen to bring in with them before the prescription is discontinued suggests that the subsequent discontinuation is not driven by medical considerations. Indeed, if the driving force for discontinuing a medication is truly a lack of need for that medication, then it should be discontinued *regardless* of whether the juvenile brought in a supply of his own. And, in fact, when we asked Logansport's psychiatrist what the rationale is for permitting residents to finish medications they have with them, he stated that it was to avoid the medication going to waste.

youth is transferred to his treatment facility, more comprehensive screening and assessment services are required. Unfortunately, as we discuss in our findings letter issued in regard to Plainfield, we find that these treatment facilities fail to provide such services. See Plainfield Findings Letter at 12-13. We note this issue here because systemwide coordination is needed to ensure that comprehensive screening and assessment is conducted.

III. REMEDIAL MEASURES

In order to rectify the identified deficiencies and protect the constitutional rights of juveniles confined at Logansport, IDOC should implement, at a minimum, the following remedial measures:

1. Provide adequate psychopharmacological treatment to youths. If a wash-out period is implemented for youths who enter Logansport on psychotropic medication, IDOC should:
 - a. Conduct an adequate baseline assessment of the youths and ensure adequate documentation of the baseline;
 - b. Provide adequate monitoring during the wash-out period;
 - c. Provide timely follow-up assessments to determine whether a return to treatment with medication is warranted; and
 - d. Ensure that psychopharmacological treatment is promptly resumed when necessary.
2. Provide adequate screening and assessment services to identify youths with serious mental health needs. At a minimum, all youths should receive a comprehensive mental health screening and assessment, either during their stay at Logansport or immediately after admittance to their treatment facility.

* * *

As stated above, we appreciate the cooperation we have received from IDOC officials and facility staff throughout this investigation. We hope to be able to continue working with the State in an amicable and cooperative fashion to resolve the deficiencies found in IDOC's provision of mental health services. Provided that our cooperative relationship continues, we will forward our expert consultant's report under separate cover.

Although this report is the consultant's work - and does not necessarily reflect the official conclusions of the Department of Justice - the observations, analyses, and recommendations contained in the report provide further elaboration of the issues discussed in this letter and offer practical assistance in addressing them.

In the unexpected event that we are unable to reach a resolution regarding our concerns, the Attorney General is empowered to institute a lawsuit pursuant to CRIPA to correct the deficiencies of the kind identified in this letter 49 days after appropriate officials have been notified of them. 42 U.S.C. § 1997b(a)(1).

We would prefer, however, to resolve this matter by working cooperatively with you. We have every confidence that we will be able to do so in this case. The lawyers assigned to this matter will be contacting your attorneys to discuss this matter in further detail. If you have any questions regarding this letter, please contact Shanetta Y. Cutlar, Chief of the Civil Rights Division's Special Litigation Section, at (202) 514-0195.

Sincerely,

/s/ Bradley J. Schlozman

Bradley J. Schlozman
Acting Assistant Attorney General

cc: The Honorable Steve Carter
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