



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

REGISTERED MAIL
RETURN RECEIPT REQUESTED

SEP 28 1992

The Honorable Stan Stephens
Governor
State of Montana
State Capitol
Helena, Montana 59620

CRIPA Investigation



Re: Pine Hills School for Boys

Dear Governor Stephens:

I am writing in reference to our recent investigation, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 et seq., of the Pine Hills School for Boys located in Miles City. Consistent with the requirements of the statute, the purpose of this letter is to advise you of our findings by identifying the conditions at the facility that deprive juveniles confined there of their constitutional rights, the facts supporting our determination of constitutional violations, and the necessary remedial measures to correct these violations. I regret to advise you that our investigation disclosed serious problems at the Pine Hills facility which implicate the constitutional rights of confined juveniles.

We have assessed the constitutionality of conditions at this juvenile detention facility in light of a narrow constitutional standard. Institutional administrators are granted wide discretion in the operation of the facility; only those restrictions on juveniles which do not further or are not reasonably related to the legitimate governmental objectives of rehabilitation, safety, internal order or security violate constitutional standards. Bell v. Wolfish, 441 U.S. 520, 539 (1979); see also Gary H. v. Hegstrom, 831 F.2d 1430 (9th Cir. 1987).

Based on our investigation, we have concluded that the following conditions violate the constitutional rights of juveniles confined at the Pine Hills School for Boys:

1. Security measures and supervision of juveniles are

insufficient to protect juveniles from undue risks to their personal safety.

2. Fire safety, sanitation, and other building hazards are evident throughout the facility.

3. Mental health services are not adequate to meet the serious mental health needs of juveniles, including juveniles posing serious risks of suicide.

4. Seclusion, restraint, and certain disciplinary measures are consistently imposed in an arbitrary fashion and fail to meet constitutional standards.

5. Restrictions on access to telephone usage and writing materials likewise fail to meet constitutional requirements.

The Attachment to this letter sets forth the facts supporting the findings of constitutional violations.

Remedial measures must be taken to ensure that juveniles confined at the facility are not deprived of their constitutional rights. These measures must include, at a minimum, the following remedies:

1. Security measures and the supervision of juveniles must be improved to ensure that reasonably safe conditions of confinement are provided.

2. Fire safety, sanitation, and other building hazards must be eliminated.

3. A mental health care delivery system designed to meet the serious mental health needs of juveniles must be developed and implemented.

4. Standards for the use of seclusion, restraint, and the imposition of discipline must be revised to meet constitutional requirements. Written policies and protocols must be monitored by institutional professionals to ensure appropriate implementation.

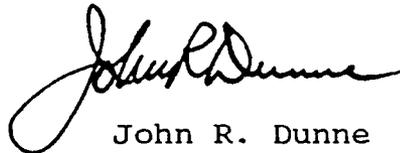
5. Juveniles must be granted that degree of access to telephones and writing materials mandated by constitutional standards.

You may wish to contact the regional offices of the Departments of Health and Human Services and Education as well as the National Institute of Corrections and Bureau of Justice Assistance to ensure that state officials have taken full advantage of any available federal financial assistance which may be available to assist you in the correction of these

available to assist you in the correction of these deficiencies. If we can assist you in this regard, please contact us.

We appreciate the assistance and cooperation of all State and institutional officials extended to us during the course of this investigation. My staff will contact appropriate officials in the near future to discuss this matter further. If, in the meantime, you or members of your staff have any questions, please feel free to contact Arthur E. Peabody, Jr., Chief, Special Litigation Section at (202) 514-6255.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division

Attachment

cc: The Honorable Marc Raciot
Attorney General

✓ Mr. Thomas Olsen
Director
Department of Family Services

Mr. Alan Davis
Department of Family Services
Division of Correctional Facilities .

Mr. Steven Gibson
Superintendent
Pine Hill School for Boys

The Honorable Doris M. Poppler
United States Attorney
District of Montana

ATTACHMENT
FACTS SUPPORTING FINDINGS OF CONSTITUTIONAL VIOLATIONS

Our investigation of the Pine Hill School for Boys consisted of two on-site tours by consultants in December 1991 and January 1992. Our consultants included two psychiatrists, a penologist with expertise in juvenile delinquency, a sanitarian, and a life safety expert. During these tours, we conducted extensive interviews with direct care and professional staff with a variety of responsibilities at the facility. We also reviewed numerous records and the facility's policies and procedures.

Security and Supervision

The failure of institutional administrators to employ adequate security measures and the failure of security personnel to supervise juveniles confined at the facility has subjected juveniles to harm. Staff is both insufficient to properly supervise juveniles and to maintain the facility in a manner which does not present serious security risks.

Staff with responsibilities for the operation of various lodges or buildings at the facility reported that juveniles engage in dangerous activities due to lack of supervision. For example, staff reported that juveniles engage in a dangerous activity referred to as "strobing." Several juveniles form a human chain with one person "grounding" himself against a metal object while the youth at the other end of the line of juveniles inserts a metal object into an unprotected electrical outlet. Electrical current of some dimension then runs "down the chain" and through the body of each individual juvenile.

Additionally, cleaning chemicals are not properly stored in the facility. Staff confirmed that they have discovered youths inhaling such substances in an effort to create a substance induced "high."

The need for enhanced security personnel to conduct rounds and to otherwise supervise juvenile is further heightened by the design of many structures at the facility. Our consultants noted numerous areas out of sight of staff in areas where they are routinely posted. Moreover, doors on various rooms open inward. Such doors are and have been easily barricaded by youth inside the rooms. Incident reports reflect allegations of arson, sexual misconduct, and victimization by juveniles in such areas not kept under routine surveillance by staff.

Fire Safety, Sanitation, and other Building Hazards

Fire safety, sanitation, and other building hazards are evident throughout the facility. Indeed, many of the structures comprising the facility present serious and immediate risks to juveniles confined there. Furthermore, in the view of our

consultant, a number of structures are unfit for human habitation.

Pine Hill's antiquated locking system, where each individual door must be individually unlocked for egress, exposes juveniles to grave risks in the event of fire. In addition, the facility's fire and smoke alarm system is seriously deficient. The facility's only annunciator panel which is designed to detect and identify the presence of smoke or fire is located in an abandoned, closed building. Smoke detectors in buildings occupied by juveniles are likewise seriously deficient. Fire fighting equipment is not properly maintained.

Adequate egress from buildings in the event of fire is not assured. There is no fire plan identifying the proper means of egress. In designing such a plan, institutional administrators should identify all current barriers to egress, including dead ended corridors and the availability of exits, and take appropriate steps to eliminate such barriers.

Smoke compartmentation is likewise grossly deficient. In simple terms, smoke from any fire in a building at the facility would rapidly spread throughout the entire structure absent any impediment. Missing doors, open transfer grills, and the absence of smoke partitions require attention.

Buildings also contain a number of highly flammable materials which unnecessarily contribute to fire safety risks. Mattresses and furniture containing polyurethane foam are utilized throughout the facility. When burned polyurethane produces deadly, life threatening fumes. Moreover, our fire safety consultant noted numerous other highly flammable materials throughout the various buildings composing the facility.

There is a general lack of cleanliness throughout many living areas and food service at Pine Hills is deficient. In living areas, bathroom and shower areas are especially problematic. Many such areas are in poor repair; stalls and toilets are broken, walls and floors are rotten. Various food service equipment is likewise in poor repair and unsanitary. For example, dish washing facilities consistently fail to utilize water sufficiently hot enough to kill bacteria and ensure cleanliness. Food service equipment is not clean or properly maintained and food preparation areas are not sanitary.

Our consultant found general maintenance at Pine Hills to be grossly deficient. Broken glass windows and unrepaired boarded up windows were noted in various structures. Floors, walls, and ceiling show serious damage. Indeed, such deficiencies in the Crazy Horse and Lewis and Clark Lodges are so severe that our consultant determined them to be unfit for human habitation. While we understand that these buildings are presently closed, major renovations are necessary if state administrators determine

to re-open the buildings for use by juveniles, an issue discussed with our consultants during their tours.

Mental Health Care

Pine Hills provides grossly inadequate mental health services to juveniles with serious mental health needs. Deficiencies include insufficient psychiatric services, deficient nursing coverage, and misuse of psychotropic medications.

All mental health and medical services at Pine Hills are supervised by a non-psychiatrist, general practice physician with insufficient expertise in the field of psychiatry. Moreover, he spends only one hour per week at the facility. In such a little period of time, he can do little more than give routine review to medication prescriptions. In addition, our consultants found that nursing coverage is likewise inadequate. Those few nurses on duty also have no training in psychiatric nursing. With youths who present the risk of suicide, exhibit other self-destructive behavior, including self mutilation, such psychiatric coverage is clearly inadequate. Indeed, professional mental health resources are so limited that facility administrators indicated that they are unable to identify, assess, and treat the serious mental health problems of juveniles.

The use of psychotropic medications at the facility represents a substantial departure from generally accepted standards for the use of such medication. A review of records of some youths on psychotropic medications revealed no diagnosis to justify the use of such medication. Others failed to identify target symptoms for which the drug was prescribed, a procedure generally accepted within the medical profession. Further, at least one drug, lithium, has been prescribed on an extensive basis to juveniles for general disruptive behavior. The use of lithium on this basis represents a substantial departure from generally accepted medical practice. Finally, psychotropic drugs administered on an emergency basis are not followed up by any medical examination by a physician.

Our consultants indicated that the risk of suicide by juveniles at Pine Hills is especially high. A combination of lack of professional resources coupled with a hazardous environment which freely presents both the opportunity for unobserved activity and objects, e.g., broken glass, exposed pipes, which can be used in a lethal manner explain this risk. Unfortunately, this view has been confirmed both by suicides and suicide attempts at Pine Hills.

Misuse of Seclusion Arbitrary Imposition of Discipline

The use of seclusion and isolation as a form of discipline is arbitrary and indiscriminate. Staff impose both seclusion and isolation in their personal discretion and often do not fill out required documentation or obtain supervisory approval prior to

taking such actions. As a result, youths are isolated in an arbitrary manner absent appropriate monitoring or review by institutional officials. Due to lack of appropriate documentation, it is difficult to accurately assess the number of juveniles secluded or isolated or the periods of time they remain separated from others. To the extent that such information is recorded on incident reports maintained by the facility, a review of these records indicates that many juveniles remain isolated or in seclusion long after they have brought their behavior back under control. Juveniles interviewed reported being kept in lockdown status for extended periods of time incompatible with accepted clinical practice. Moreover, there is no documentation recording the monitoring of the status of juveniles while isolated or secluded. While the facility's policy appears to incorporate both isolation and seclusion into a behavior modification program, this program, as administered at the facility, fails to meet any known professional standard. Certainly, staff have not been trained to employ these behavior modifying techniques properly.

Significantly, a review of records indicates that youths exhibiting self-destructive and potentially suicidal behaviors have been secluded, absent appropriate monitoring by professional staff. This practice is unacceptable.

In sum, our consultant who reviewed the use of both seclusion and isolation at Pine Hills found their use to be wholly unacceptable. Indeed, he characterized the use of seclusion and isolation at the facility as "heinous."

Restrictions on Access to Telephones and Writing Materials

Pine Hills arbitrarily limits access by youth to one incoming and one outgoing telephone call per month. Calls attempted by youth to their counsel are often denied. Access to writing materials is arbitrarily limited to three sheets of paper per week. These practices, especially the denial of calls to an attorney, appear to represent unusually harsh restrictions for which there is no justification. In view of the fact that many of these youth are hundreds of miles away from family, friends and counsel, policies with respect to telephone calls and letters merit reexamination.