

## **Overview of the Department of Justice's Investigation at Glenwood Resource Center and Woodward Resource Center**

### **I. Civil Rights of Institutionalized Persons Act**

#### **CRIPA requirements placed upon institutional provider**

- The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the United States Department of Justice to enforce what the U. S. Supreme Court has described as minimal constitutional requirements for residents of institutions operated by the state: “All residents of state-operated mental retardation facilities have a Fourteenth Amendment due process right to adequate food, clothing, shelter, medical care, habilitation to ensure reasonable safety, freedom from unreasonable restraint, prevention of regression, training, and ability to pursue liberty interests” (Youngberg v. Romeo, 457 U.S. 307 (1982)).

#### **Related statutes/regulations**

- The state must provide public services to individuals with disabilities that represent the most integrated setting appropriate to their needs. See, e.g., Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12132 et seq.; 28 C.F.R. § 35.130(d); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 et seq. and the regulations promulgated pursuant thereto; and the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. 1412(5)(B)
- The state must provide services and programs that are readily accessible to and usable by individuals with disabilities (28 C.F.R. § 35.150).
- **42USC 1997a Civil Rights of Institutionalized Persons Act (CRIPA)**  
US Attorney General with:
  - a. reasonable cause to believe
  - b. that State or political subdivision
  - c. is subjecting person in institution (as defined
  - d. to “egregious or flagrant” conditions depriving persons of rights, privileges, or immunities guaranteed by US Constitution
  - e. Causing “grievous harm” AND that such deprivation is pursuant to “pattern and practice” may institute civil action in federal court
  - f. For equitable relief affecting “minimum corrective measures”

### **I. Background**

- November 1999, the Department of Justice (DOJ) began an investigation of potential violations of the Civil Rights of Institutionalized Persons Act (CRIPA) requirements at Glenwood Resource Center and Woodward Resource Center. DOJ staff identified key issues with psychiatric, psychological and behavioral treatment, use of medication and restraint. DOJ staff indicated it wanted to work cooperatively with the state.
- April 30, 2001, Iowa received the Survey Report from the November 1999 visit.
- April 30 - May 5, 2001, DOJ made a second visit to each Resource Center (RC). During the exit conference, DOJ experts reiterated the same key issues identified in 1999 and also indicated additional concerns about transition planning and risk management.

- July 20, 2002, Iowa received the DOJ Findings Letter, which stated that both RCs excel in various respects, including resources for communities, medical care at Woodward, nutrition care at Glenwood, dedication, and concern for the client wellbeing. However DOJ suggested that both RCs, as of May 2001, were below constitutional CRIPA minimums in several key areas. The letter also described recommended remediation the US DOJ believed necessary to achieve minimal compliance. The letter also referenced the integrated setting obligations upon states in *Olmstead v. Zimring* 527 U.S. 581 (1999).

Specific issues included:

- Use of restraint at Woodward
  - Medical care at both facilities
  - Psychological and psychiatric care at both facilities
  - Quality assurance and risk management systems
  - Habilitation
  - Outplacement to integrated settings in the community
- November 2002, DOJ visited both Resource Centers for a third time. Although DOJ noted some areas in which progress had been made, DOJ informed the Department of Human Services that both facilities still needed to improve.

In addition to the extensive materials provided upon request, DOJ listened to case presentations, reviewed selected charts, interviewed staff, observed clients in the living and vocational units, reviewed risk management, quality assurance and abuse/neglect procedures, toured living units and met with AFSCME leadership at both campuses. DOJ also visited the RC off site Waiver Homes.

## **I. Current DOJ Issues and Summary RC Proposed Strategies/Resources to Address In Order of Priority**

1. Psychiatric, Psychological and Behavioral Treatment: DOJ continues to identify issues with the diagnosis, evaluation/assessment and treatment planning processes including multidisciplinary integration in case planning; training; client information; and delivery of services with existing staff ratios for some disciplines.

Strategies to address:

- Improved case formulation through training
- Improved collection of client data via the use of technology
- Effective access to client data for diagnosis and treatment planning via technology
- Improved multidisciplinary integration via consultation and training
- Improved implementation of client treatment plans via consultation and training
- Additional professional and direct care staff to increase time available to train staff and to provide treatment services.

1. Health Care Treatment: DOJ has identified Glenwood Resource Center needs to significantly increase nursing staff and implement standard operating procedures for both nursing and medical care.

Strategies to address:

- Use of standard operating manual for both nursing and medical care
- Effective access to client health care data for diagnosis and treatment planning
- Increased level of nursing staff

1. Establishment of comprehensive Quality Assurance and Risk Management Systems: DOJ finds neither facility has comprehensive quality assurance or risk management systems. Comprehensive systems will enable the RCs to more effectively monitor the overall care, and more proactively identify potential issues.

Strategies to address:

- Review Quality Assurance and Risk Management processes/systems in other facilities
- Revise existing Quality Assurance and Risk Management processes to create an overall system based upon critical monitoring needs
- Expand data analysis capacity
- Review other facility/state abuse and neglect policies and protocols
- Implement standardized abuse and neglect reporting mechanisms for state facilities

1. Community Placement Efforts and Essential Life Style Planning (ELP): DOJ has identified both Resource Centers are serving clients that can be served in the community. The Essential Life Style Planning must be more directed to clients being able to live in the community. The RC's must be more aggressive in discharge planning and in providing technical assistance and support to assure successful outplacement.

Strategies to address:

- Implement discharge agreements with providers/counties at time of admission
- Focus treatment planning and skill development on the goal of clients living in the community
- Work with parents/guardians to better understand the opportunities for appropriate placement in the community
- Work more extensively with counties and providers to identify necessary services
- Provide more technical assistance/support to providers serving RC clients

1. Vocational: DOJ has identified that both Resource Centers need to improve vocational programs so that they are more designed to meet client interests, needs and skills and community work opportunities.

Strategies to address:

- Review client assessment tool to assure client choice and capabilities are clear
- Revise existing programs/opportunities as appropriate
- Expand real work opportunities

1. Other: It will be necessary for the Department of Human Services to hire an expert consultant to assure more effective implementation of efforts to address DOJ issues. The purpose of this consultant is to provide specific oversight and technical assistance to the Deputy Director and the Superintendents.

#### **I. Preliminary Resource Center Fiscal Estimate to Address DOJ Compliance Issue**

- The total annual additional state dollars for the Resource Centers is \$3.2M.