Ohio Coalition for the Education of Children with Disabilities

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Report Criticizes Ohio Juvenile Corrections System

by Alan Johnson, The Columbus Dispatch, 1-1-08

Ohio’s juvenile-corrections system has been troubled for years, but never has its flaws been laid bare so clearly as in a report issued December 31, 2007 that labeled it excessively violent, overcrowded and understaffed.

Further, independent fact-finder Fred Cohen concluded that the practice of isolating youth offenders in cells similar to those in the Ohio Penitentiary at Youngstown, the state’s “supermax” prison for adults, is unconstitutional and “should immediately cease”. Juvenile offenders are placed in isolation too often and for too long, Cohen said. His report, filed as part of a pending settlement in a 3-year-old federal class-action lawsuit against the state, also was highly critical of inadequate education, health-care and mental health services for the 1,788 youths in 8 state juvenile facilities.

“There are a number of deficiencies,” said Al Gerhardstein, a Cincinnati attorney representing all juveniles in the system. “We consider it an emergency. We hope we have the attention of the highest levels of state government.”

Tom Stickrath, a veteran of the adult prison system who took over at the Department of Youth Services three years ago, said that’s certainly the case with Gov. Ted Strickland taking a personal role in re-examining the system.

“I generally agree with the report,” Stickrath said. “In many ways, it supports the broad array of changes we’re making.”

Comments from the fact-finder’s report:

1. “Federal requirements for special education students are basically and systemically violated, security is found to trump education in most matters …”

2. Juvenile corrections officers “function now more like prison guards (or police officers) than trained partners in a shared rehabilitative effort.”

3. “… there is a harshness in the social climate that is created by verbally abusive and militaristic JCO’s.”

4. “We found no evidence of sustained effort to provide these youth with a health or dental education program.”

5. “Fear at (the Ohio River Valley Correctional Facility) is an all-consuming fire, fueled by the three-dimensional aspects of fear: youth fear other youth, youth fear staff, and staff fear youth.”

6. A 15-year-old youth confined to the intensive Program Unit “…spent four months in this antiseptic, lock-down unit that resembled the units and cells at the Ohio State Penitentiary, Ohio’s supermax. The only difference is the cells at OSP had more

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furniture (a desk) and every cell has a television."

7. "Over 60% of the teachers in the DYS education system report that they fear for their safety." Source: Fact-finder's report

"We are too quick to use force on kids, and we should not have to use as much isolation."

Stickrath said he's been systematically addressing most problems cited, but he said the report "will be the catalyst for taking things to the next level."

The next step will be settlement discussions between the state and Gerhardstein's team, under the direction of U.S. District Court Magistrate Terence C. Kemp.

The state system handles youths 11 to 20 years old convicted on a variety of charges. Nine of 10 are male. It costs the state about $80,000 a year for every juvenile inmate. Last year, state officials took the unusual step of agreeing to settle Gerhardstein's lawsuit. Both sides agreed to have an independent fact-finder assess the situation before moving forward on a settlement.

"We could spend years of costly pretrial litigation, depositions and go through a protracted trial and we'd probably be at a point where we still had to make the changes," Stickrath said. "We decided to not spend all that money and time when we knew we had a system that needed reform."

The 2004 lawsuit over conditions at state juvenile-detention facilities is being handled by Gerhardstein in conjunction with the Ohio Justice and Policy Center, Children's Law Center and Youth Law Center. The findings and commentary in the 201-page report ranged from sobering to sad.

"Most ODYS facilities were found to be overcrowded, understaffed, and underserved in such vital areas as safety, education, mental health treatment and rehabilitative programming. Excessive force and the excessive use of isolation, some of it extraordinarily prolonged, is endemic to the ODYS system."

One boy told a fact-finder, "Some kids will go on suicide watch just for someone to pay attention to you and talk to you."

The report was equally critical about inadequate health, dental and mental health services and the fact that, on many days, youths at Youth Services facilities receive less than the legally required day's worth of school instruction.

"Federal requirements for special education students are basically and systematically violated. Security is found to trump education in most matters," the report said.

At one facility, fear was described as "an all-consuming fire, fueled by the three-dimensional aspects of fear: youth fear other youth, youth fear staff, and staff fear youth."

One of the solutions, both sides agree, may be hiring more corrections officers to help deal with juvenile populations now 140% of rated capacity. To get to the 1-to-12 officer-to-inmate ratio, the state would have to hire 188 new officers to an estimated cost of $7.8 million annually, the report said. Reaching a more desirable 1:8 ratio would cost $14.2 million.

The full report can be viewed online at:
ajohnson@dispatch.com
Teachers Reach Out to Parents

It’s usually the parents who visit schools when they sense trouble in their children’s education, but a number of teachers and administrators in Cleveland are turning the tables and making house calls.

Teachers at Citizens’ Academy, a charter school that enrolls kids from some of Cleveland’s poorest neighborhoods, visited the homes of all 400 of its students before the current school year began.

In October, a group of Cleveland public-school teachers, administrators and volunteers visited the homes of more than 1,000 seniors who need to pass one or more parts of the Ohio Graduation Test to get a diploma next spring. Ohio’s largest district made a similar sweep last spring for sophomores before they took the test for the first time.

“We had dogs barking in the yard and grandma coming over for lunch,” said Cleveland schools Chief Executive Eugene Sanders. “But people seemed very appreciative that we came. It went a long way toward solidifying the notion that the district values their children.”

Schools in Sacramento, Calif., pioneered the idea of home visits in 1998 after parents complained about getting a less-than-enthusiastic reception at their children’s schools.

Sacramento Area Congregations Together, a faith-based, grass-roots group of parents and activists, thought of the idea, which was embraced by the school district as well as the Sacramento City Teachers Association, a union.

The three groups operate the nonprofit Parent/Teacher Home Visit Project, which helps other districts in California apply for state grants to make home visits possible.

The state will provide $15 million in grants for the program this year. Schools can receive $15,000 to $35,000, depending on their size. Low-performing schools and schools for blind and deaf children get priority.

Ohio and most states lack a formal home-visit program, but individual districts and schools are moving forward with the idea. At Citizens’ Academy, homeroom teachers visit each of their students’ families.

During home visits, teachers and families set expectations for the coming school year and share tips on how they can help one another. Teachers also bring the children bags of school supplies.

“Home visits demonstrate to our families in a very personal way that we value them as partners in their children’s long-term success,” said Perry White, Citizens’ founder and director. “That partnership has been a critical factor in our students’ overcoming the achievement gap.”

White said home visits helped the Academy increase the parent-teacher conference attendance rate to 91% and equal or surpass the state average on six of nine achievement tests last year.

Parent Tawina Bizzell simply appreciated the chance to get to know her son’s teacher before the school year. “The teachers can see the situations that the children are coming from,” Bizzell said.

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Infants, Toddlers Benefit from Early Intervention

Occupational therapy intervention for infants and toddlers promotes their participation in their natural environments, such as home, child care, or playground. Therapists address the performance skills and demands required for both caregiver and child to engage in their daily routines and activities together. Occupational therapists look at the personal and contextual factors affecting a child’s engagement in meaningful occupations.

The key to providing effective occupational therapy services to very young children is to collaborate with family members to select meaningful occupations that will support the physical, cognitive, and psychosocial dimensions of a young child’s play, self-care, and interaction as a family member and playmate. The primary areas of occupation for this population are: activities of daily living such as feeding, functional mobility, and toileting; play exploration and participation; education; and social participation.

Five core family-centered principles guide occupational therapists, as part of the early intervention team, in providing effective services:

1. The family is the core of an early intervention team.

Occupational therapy services are family centered and are respectful of each family, along with their unique hopes, dreams, values, and priorities. Occupational therapists recognize that parents’ expertise concerning their child and family life is a critical component throughout the evaluation and intervention process and that a partnership must be developed in order to establish successful and meaningful outcomes. Families are entitled to be involved in all aspects of their child’s intervention plan, including phases of development, assessment, implementation, review, and during the phase of transition to other services and/or programs when appropriate (IDEA Final Regulations, 2004). Families also have the right to decline any early intervention service, or to modify services to accommodate their work and family responsibilities (IDEA, 2004).

2. Families function as unique systems within social and cultural systems.

Each family is unique and interacts within cultural and social systems at home and in their community, providing natural learning opportunities for a child. By encouraging family involvement, occupational therapists help to identify activities that are both meaningful and appropriate for their child within the family’s social and cultural context.

3. All team members should support each other’s roles and should select outcomes and strategies together.

In order to best meet the child’s needs, the therapist provides options and choices; the family is encouraged to express individual preferences. The input and collaboration of all IFSP team members is essential for determining the best strategies to help family members facilitate their child’s growth and learning. Gathering the perspectives of all service personnel is necessary when considering all areas of a child’s development as well as understanding the full impact of challenges on his/her access, participation and progress in meaningful activity.

4. Team members must understand each family’s story and expectations for early intervention.

Occupational therapists and other early intervention team members must engage in a dialogue with family members regarding their needs in caring for a very young child. A picture of a child’s interests, personality,
abilities, and challenges emerges, and supportive interventions can be identified. By truly listening to the family’s needs, the occupational therapist considers the family’s current level of functional performance, and, in collaboration with other team members, meaningful intervention strategies can be identified.

5. Team members must foster positive relationships between children and their primary caregivers.

Children need responsive, nurturing, and interactive relationships with their primary caregivers in order to grow and develop. Current research in early childhood confirms that these relationships organize all of early development. Occupational therapists, like other members of an early intervention team, are responsible for fostering the “goodness of fit” between a child and his or her key caregivers by providing family supports and sharing information, as desired by family members.

Following a child’s evaluation, an occupational therapist and other team members decide with a family if and when occupational therapy services are needed to reach their desired outcomes. These outcomes are identified on a child’s IFSP, which summarizes all the early intervention services and supports for a child and family. If occupational therapy intervention can help a child reach a specific outcome, the occupational therapist discusses with the parents about how the child’s strengths and challenges (i.e., their performance patterns/skills and client factors) affect his or her participation in specific areas of occupation.

The following are examples of intervention approaches:

* Establish/restore: Play oral-motor games to establish more mature tongue movement so that a child can transport the food bolus to the side for chewing and enjoy some of her family’s favorite foods.

* Adapt/modify: Modify a child’s high chair for proper head, neck, shoulder, trunk, and pelvis alignment to help a boy play with his sister.

* Alter: Assist a child care provider to incorporate calming and altering sensory activities throughout a child’s day to improve her attention to the task at hand.

* Create: Work with staff at a community pool to adapt the toddler pool, ensuring access for children with various mobility patterns.

There are many different methods in which occupational therapists provide services in community based early intervention settings. These methods include working with children and families and caregivers during individual sessions in homes, co-leading small groups in child care centers, consulting with early intervention teams, and providing in-services for child care providers. For an IFSP to be individualized for each child and family, all team members must collaborate so the process is an interactive and flexible one. A family’s desires for their child should guide the discussions and decisions. Occupational therapists can participate in initial planning discussions with families, conduct eligibility evaluations, evaluate how a child’s abilities and challenges affect participation in family-selected activities, and assist families in choosing specific child centered outcomes to guide the provision of family supports and services.

Editor’s Note: This article is from the IDEA Infant & Toddler Coordinators Association Oct. 2007 newsletter. (www.ideainfanttoddler.org)
Parents Denied Reimbursement for Evaluation

A federal appeals court ruled in favor of an Ohio school district in a dispute with parents who claimed they should be reimbursed for the cost of an independent evaluation to determine if their child had a learning disability.

The 6th U.S. Circuit Court of Appeals ruled in a 3-0 opinion that the while the parents had a right to seek an independent educational evaluation (IEE) under facts of the case, reimbursement at public expense was not required. The circuit judges affirmed a decision of a northern Ohio federal judge in denying payment for the private evaluation.

The case involved parents of a student who attended the Woodmore Local School District in Woodville from kindergarten until his high school graduation in June 2006.

When the student was halfway through his junior year in high school, the parents made a written request to the district to have him tested for a learning disability. In response to subsequent disciplinary action against the student, the parents requested a due process hearing and asked that the district be ordered to perform the requested evaluation.

Prior to the hearing, the school system completed a multi-factored evaluation and concluded that the student was not eligible for special education services under the Individuals with Disabilities Education Act (IDEA). Unhappy with the decision, the parents paid for a private, independent evaluation.

An impartial hearing officer at a subsequent hearing concluded that the student did not qualify for special education services despite his Attention Deficit Disorder and allergy problems because his educational performance was not adversely affected.

As a result, the officer also concluded that the parents were not entitled to reimbursement for the cost of their private evaluation. The parents then took the case to U.S. District Court, which ruled in favor of the district last January.

The parents did not contest the district court's eligibility determination in their appeal to the 6th Circuit, nor their right to obtain an independent evaluation. The sole issue was whether federal and state regulations required reimbursement to them for the cost of the private evaluation.

The appellate panel, in an opinion not attributed to a specific judge, said federal law provides that parents of a child who may have a disability have the right to obtain an independent evaluation of the child. "The district court properly construed the implementing regulations as stating that, if there is a hearing where the parent was afforded due process and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation but not at public expense," the appeals court said.

Circuit judges said the parents had participated in a two-day due process hearing before an impartial hearing officer during which numerous exhibits were introduced and witnesses testified about the district's evaluation testing process and conclusions. "Witnesses included the student's mother, the school psychologist, the athletic director, the special education director, the special education teacher, the student's guidance counselor and his teachers for economics/government, math, chemistry, and English," the court said. "There is no evidence that the district failed to undertake the burden of defending the appropriateness of both its evaluation and its eligibility determination at the due process hearing," it said.

One Parent Mentor’s “Sunny” Experience

by Kim Dennison

When I was parent mentor about 12 years ago, I used to have the teachers nominate a student of the month each month. At the end of the year we would have a little celebration for the kids with cake, punch and door prizes for everyone. I would usually get someone to come from our local TV station to talk with the kids. We have a Chief Meteorologist on our local station that has been there for years and he attended the first one that I had.

There was a little boy in the LD class in one of the buildings that was nominated that year. He loved everything to do with the weather so that year he got to come to the year end celebration and meet Tony Cavalier, the weather man from our area. That is all this young boy talked about, it was his passion. He even gave the weather with the morning announcements on the PA system each day at school.

Well, he is now working as a Meteorologist at the same TV station in our area where Tony Cavalier worked! I am so excited for this young man. I have always had a special place in my heart for him because he was so determined to do what he wanted, and he succeeded. He made his first appearance on our local station this past weekend. What a success! Previously, he was working at a station in Beckley, West Virginia but took this position now to be closer to home. He was the youngest Chief Meteorologist in the country when he started in Beckley.

I e-mailed him to tell him how proud I was of him. He said he would never forget that night and meeting Tony Cavalier, and that it seemed like yesterday. He goes to schools in the area and tells the students, ‘it doesn’t matter who you are, where you came from, or what resources are available, never let anyone tell you that you can’t do something because you can and I am proof of that.’

Parents File Suit Against Abusive Teacher

In Pennsylvania, parents of a child with autism filed suit against the support teacher, the school district where she was employed, and other administrative staff, alleging the teacher used aversive techniques to redirect their son’s behavior. Specifically, the Plaintiffs claim that the teacher struck and squeezed the child’s arms and legs, screamed in the child’s face, stomped on the child's insteps, and unlawfully restrained the child in a device called a Rifton Chair. Plaintiffs' 14-count complaint alleged violations of the U.S. Constitution, IDEA, and Pennsylvania Tort law.

A Pennsylvania federal district court granted the Defendants’ motions to dismiss the Plaintiffs' claim for negligence, as insufficient. Furthermore, the school district was not liable for punitive damages, nor vicariously liable for the teacher's actions because such abuse is outside the scope of her employment. The court did not dismiss the Plaintiffs’ claims for assault, battery, and intentional infliction of emotional distress. The Plaintiffs’ failure to exhaust administrative remedies, as ordinarily required by the IDEA, did not bar the lawsuit.

Bush Vetoes Child Health Insurance Bill

On December 12, 2007, President Bush vetoed legislation that would have expanded government-provided health insurance for children, his second slap-down of a bipartisan effort in Congress to dramatically increase funding for the popular program.

It was Bush’s seventh veto in seven years, and all but one have come since Democrats took control of Congress in January. [December 12] was the deadline for Bush to act or let the bill become law. The president also vetoed an earlier, similar bill expanding the health-insurance program.

In a statement notifying Congress of his veto of the insurance legislation, Bush said the bill was unacceptable because, like the first one, it allows adults into the program, would cover people in families with incomes above the U.S. median and raises taxes. “This bill does not put poor children first, and it moves our country’s health-care system in the wrong direction,” Bush’s statement said. “Ultimately, our nation’s goal should be to move children who have no health insurance to private coverage, not to move children who already have private health insurance to government coverage.”

Bush urged Congress to extend the program at its current funding level. In fact, congressional leaders already had said that they will now try only to extend the State Children’s Health Insurance Program well into 2008 basically in its current form. Their comments signaled that they have given up efforts to substantially expand the program.

The bill Bush vetoed would have increased federal funding for SCHIP by $35 billion over five years and would have added an estimated 4-million people to the program.

Meanwhile, Bush did sign into law a five-year renewal of Head Start, the federal preschool program for poor children. The legislation raises the eligibility ceiling from 100% of the poverty level for a family of four, about $20,650, to 130%, or $26,845, while giving priority to the neediest children.

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