

Disability Rights director explains lawsuit

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ALBANY - A federally funded nonprofit agency that monitors investigations into the abuse of people with developmental disabilities has sued the state Justice Center for the Protection of People with Special Needs.

"The Justice Center has not released to us records that we believe federal law requires them to release," Disability Rights New York Director Attorney Jennifer Monthie said on a broadcast of "The Capitol Pressroom" radio show Thursday. "When the Justice Center was created ... our state legislature stated that the independent agency (DRNY) is entitled to access to unsubstantiated investigative files.

"This means if the Justice Center were to find that abuse and neglect did not occur, typically, the Justice Center would seal those records to the public. But (DRNY), as the only independent not-for-profit agency, was given access to those sealed records. The Justice Center hasn't fully disclosed them, so there are certain information within those records that we haven't been able to gain access to, and (DRNY) believes that that unfettered access is required under federal law."

On Thursday, "Capitol Pressroom" host Susan Arbetter led a one-hour show on Sunmount, a facility which cares for the developmentally disabled centered in Tupper Lake. The Enterprise and North Country Public Radio teamed up with "Capitol Pressroom" to shed more light on recent occurrences at Sunmount, such as multiple arrests, a mandated overtime and understaffing crisis, and the agency's lack of communication with its community and the public at large. The broadcast featured Monthie, NCPR Adirondack Bureau Chief Brian Mann, this reporter, Tupper Lake Mayor Paul Maroun, the Civil Service Employees Association's Director of Communications Steve Madarasz and Susan Kent, the president of the Public Employees Federation. Representatives of the Justice Center and the state Office for People With Development Disabilities declined invitations to appear on the show.

The suit was filed in January.

"The federal program that was created that funds (DRNY), the protection and advocacy system, was created so that the states would operate an independent entity to oversee both the delivery of service and the state's way of providing service to people with disabilities," Monthie said on the broadcast. "The Justice Center as a state agency is one of those that would be within the purview of this independent agency to investigate.

"There isn't any specific allegation that we are looking into; we are simply trying to learn more about this organization, and the lack of access to the information that we're seeking is preventing us from learning what that organization does and how that organization, the Justice Center, conducts its investigations."

Monthie also explained some of the differences and similarities between DRNY and the Justice Center.

"Our agency does have some similar responsibilities (to the Justice Center), but I think there's three main distinctions," she said. "One, Disability Rights New York is not a state agency like the Justice Center; we are ... an independent not-for-profit agency which is federally funded to investigate abuse-neglect and to provide advocacy to people with disabilities.

"Another distinction is that Disability Rights New York has a slightly broader authority to investigate allegations of abuse and neglect in settings in which the Justice Center does not have that jurisdiction. For example, we investigate allegations of abuse in prisons, in non-residential schools (and) in nursing homes.

"The third distinction is Disability Rights New York provides civil legal services, so it does not bring criminal charges to protect victims of abuse. Instead, Disability Rights New York would refer to the relevant organization or police that does bring those charges whereas the Justice Center has the ability to prosecute individuals criminally for being alleged perpetrators of abuse."

Monthie also explained DRNY's relationship to Sunmount.

"I think all of the facilities that are being operated by OPWDD, the large, state facilities, are on our radar," she said. "The protection advocacy system was created in New York ... after the terrible conditions of Willowbrook (a state facility for the developmentally disabled which closed after its abuse of its residents came to the public's attention).

"Sunmount is one of those kinds of facilities: large, intermediate care facilities for people with developmental disabilities. So, we are closely monitoring all of those facilities. Particularly, we are spending a lot of our resources looking at the ones that are closing to make sure that people are safely and effectively transitioning into the least restrictive setting they can live in. But the Sunmount facility you mentioned is going to remain open, so it will remain a priority of ours to know what is going on in that facility and to monitor abuse and neglect in that facility."

At the close of the program, Mann touched upon the state's troubled history caring for the developmentally disabled and asked Monthie, "Why is this so hard to fix?"

"The care of people who cannot report to others the things that are happening to them makes a person particularly vulnerable, and the challenge that we see is that, often the most critical of complaints are coming from anonymous sources or people who heard it third-hand, and so tracking down that information is difficult," she answered. "Also, when you have as many complaints being received, it's hard to cull through the ones that are really critical, and that's what we're trying to do."

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