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CHILD PROTECTIVE SERVICES INVESTIGATION
OF THE
GOVERNOR BAXTER SCHOOL FOR THE DEAF

A report to the Commissioner,
Maine Department of Human Services

Submitted by
Bureau of Social Services
Maine Department of Human Services
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THIS SECTION IS CONFIDENTIAL UNDER 22 M.R.S.A. SECTION 4008.

SECTION I
CHILD PROTECTIVE SERVICES INVESTIGATION

A. INTRODUCTION AND BACKGROUND

On February 3, 1982 the first of a series of newspaper articles alleged that students at the Governor Baxter School for the Deaf (GBSD) had been abused by staff members. In response, Governor Joseph Brennan requested the Attorney General to investigate any allegations of criminal behavior. Simultaneously, the Department of Educational and Cultural Services (DECS) convened a special Review Team to investigate all the specific allegations and to evaluate the overall operation of the School.

The Department of Human Services was asked to participate in the DECS administrative review process by evaluating GBSD against current and proposed state licensing standards for residential child care facilities. The Bureau of Social Services' Licensing Unit was assigned this responsibility even though GBSD, as a state institution, is not subject to licensure. Nevertheless, these laws and regulations constitute standards of child care that are generally accepted as basic and necessary for any child who must be placed outside his or her own home on a twenty-four hour basis. They are based upon the principle that every operational aspect of a residential facility affects the children in its care. Thus, a licensing review is a comprehensive evaluation of a facility's program. The resulting report has been forwarded to the DECS Special Review Team for inclusion in its report as a chapter on licensing.

The Department of Human Services' Child Protective Services Unit, was asked to participate in the review process. However, under Maine law, 22 MRSA Section 4004, the Department of Human Services is mandated to receive and investigate reports of abuse and neglect, to determine the degree of harm or threatened harm to each child in each case, and to take any necessary action to protect the child. This duty must be carried out regardless of any internal review undertaken by an institution which is subject to such a report. Furthermore, under 22 MRSA Section 4011, specified persons, including teachers, school officials, social workers, and child care workers persons who know, or have reasonable cause to suspect that a child has been or is likely to be abused or neglected are required to report or to cause a report to be made to the Department of Human Services. Abuse and neglect is defined broadly in the law (22 MRSA Section 4002(1)) to mean a threat to a child's health or welfare by physical or mental injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these by a person

responsible for the child. Therefore, a direct report to the Department of Human Services was mandated and a separate child protective services investigation was prescribed by law and Departmental policy.

Results of the child protective services investigation to date are included in this report. The findings are based on information gathered by the Attorney General and the DECS Special Review Team as well as the Department of Human Services. Child protective services activity will continue if additional cases are referred or until there is assurance that no children require further protection or related services.

B. FOCUS

The purpose of child protective services is to protect children who may be actually or potentially abused or neglected. Child welfare law in Maine has evolved over the years from a focus on proving the guilt of the perpetrator of child abuse or neglect based on a quasi-criminal law, to one of proving that a child's health or welfare is in jeopardy based on a civil law (22 MRSA Sections 4001-4071). Therefore, where it used to be necessary to prove the guilt of the perpetrator in order to protect the child, it is now sufficient to establish only that the child is in danger. Thus, the primary focus of a child protective investigation is on the child and his or her circumstances and experiences.

If an investigation reveals possible criminal action a report is made to appropriate law enforcement authorities who determine whether or not there is basis for prosecution. If it is indicated that medical or other follow-up treatment may be needed, appropriate action is taken to secure the necessary services or assure that they are provided. The protective services activity continues until the child is protected and free from further jeopardy, or until it is determined that the allegation is not valid. Therefore, the role of the Department of Human Services is distinct from those of either the Attorney General or DECS in that its focus is predominantly on the current well-being of individual children and on provision of necessary follow-up treatment.

C. METHODOLOGY

The Special Review Team referred each case which it believed might involve criminal activity to the Attorney General for further investigation. Those cases were not separately investigated by the Department of Human Services unless a question of current jeopardy to the child was raised. The Department of Educational and Cultural Services has assumed responsibility for assessing treatment needs of these children, for providing needed services, and for taking any necessary corrective action at GBSD itself.

The Department of Human Services' Child Protective Services Unit was responsible for investigating other referred reports of abuse and neglect at GBSD or in a child's own home. Interviews were held with all people involved in a particular report of abuse except for those GBSD staff who were alleged perpetrators and whose employment had been terminated. Intervention at GBSD ceased when it was determined that individual children who were subjects of reports were being protected and were free from further harm. Appropriate referrals to law enforcement authorities or treatment resources were made. If further service in an individual situation is necessary, it continues as an active child protective services case.

In order to identify as many potentially abusive incidents as possible, on April 5, 1982 the Commissioner of DECS informed all GBSD staff of their responsibility to report. He indicated that anyone referring any incidents of suspected abuse by April 12, 1982, would not be referred for prosecution for failure to report at the time of the incident.

During the course of the investigation, upon invitation from the DECS, the Child Protective Services Unit conducted a training session for about twenty houseparents and some of the kitchen staff on indicators of child abuse and neglect, and on reporting responsibilities and procedures required by law.

D. REPORTS OF ABUSE OF STUDENTS AT GBSD

A decision was made early in the period of investigation that possible criminal activity would be referred to the Attorney General by the Special Review Team and that those cases would not be separately investigated by the Department of Human Services. Therefore, the Department of Human Services did not independently investigate cases when the Attorney General confirmed that the children were safe. Criteria for determining their safety included:

- the removal of the alleged perpetrators of abuse from GBSD;
- Ongoing monitoring of individual situations by DECS and the current acting administrators at GBSD.

Other reports of possible abuse were not pursued by the Department of Human Services because: former students were not available to be interviewed; alleged incidents of abuse occurred several years ago; the alleged perpetrators are no longer at GBSD; and, there is no question of current jeopardy to children. Some reports could not be corroborated or denied because there were no witnesses and there would only be the word of one person against another. Ultimately, the major attention of the Department was focused on sixteen current students. Where the Attorney General's and DECS' investigations had not already revealed sufficient pertinent information, further investigation was done by the Department of Human Services. In nine cases, the Department conducted the primary investigation to an individual student.

Because students of GBSD lack well developed communication skills it was difficult or impossible to determine the time various incidents occurred. It was also difficult for them to communicate nuances that might affect interpretation of certain responses or behaviors involved in incidents they described.

The investigations of the three Departments have identified forty-nine students who have been the subject of alleged abuse by a relatively small number of staff members over a period of, at least, ten years. Until the recent actions of DECS beginning in the Fall of 1981, it appears that virtually no corrective action took place. Sexual exploitation of two current students and three former students have been confirmed. Further suspicions in regard to one current student and nine former students, (two of whom were also suspected to have been subject to possible physical abuse) were not able to be confirmed.

Abusive or inappropriate physical discipline and methods of managing seven current students and three former students has been confirmed by at least one independent witness in each case. Reports of abusive or

inappropriate physical discipline and methods of managing children were made, but not confirmed for six current students and eighteen former students.

Children who were students during the 1981-82 school year who continue at GBSB and who are known or suspected to have been subject to abuse, exploitation, or inappropriate physical discipline will be followed by the Department of Human Services until there is assurance that there is no threat of harm and that all related needs for follow-up service have been met.

Section II contains a listing of specific cases of alleged sexual exploitation or physical abuse of students who were at GBSB during the 1981-82 school year.

A summary of the allegations pertaining only to sixteen current students is contained in the following chart.

STUDENT OF ALLEGATIONS OF ABUSE, INAPPROPRIATE DISCIPLINE OR INAPPROPRIATE
CHILD MANAGEMENT USED WITH CURRENT STUDENTS OF GBSD

STUDENTS DURING 81-82 SCHOOL YEAR		ALLEGATION																					
	Confirmed by at least one other person	Dragging by hair	Pulling hair	slapping face	Punching (unspecified)	Punching in stomach	Punching in Jaw, face	Hitting (unspecified)	Hitting in head	Knocking head against wall	Thrown/flung against wall	Squeezing around neck and shoulders	Choking	Grabbing and shaking	Threatened to cut off finger	Bent finger back	Hand squeezed hard	Sexual fondling	Sexual exploitation	Kicking	Wrenched around	Bruised leg	
1	X																						
2					X		X	X			X			X									
3								X												X			
4										X										X			
5												X											
6														X									X
7									X														
8																		X					
9																			X				
10								X												X			
11								X												X			
12																							
13																							
14									X											X			
15																							
16																							
5																							
7																							

E. REPORTS OF ABUSE OF GBSD STUDENTS IN THEIR OWN HOMES

In addition to the investigation of possible abuse at GBSD itself, the Department of Human Services also investigated four reports made by one GBSD staff member of suspected sexual abuse of GBSD students in their own homes. The first report was in 1979; the other three were made during the current review process. Two of the four reports were substantiated and steps were taken to protect the girls from further abuse. Prosecution is under consideration in one case by law enforcement officials. The remaining two are open protective cases with sexual abuse strongly suspected.

Summaries of these cases are also included in Section II.

The Department of Human Services has worked directly with DECS in assuring that appropriate follow-up and treatment plans have been developed for all children about whom there are current concerns related to abusive incidents. DECS has been cooperative and is carrying out its current responsibilities to the fullest. As a result, all students at GBSD are being protected and are no longer in jeopardy.

F. CONCLUSIONS

The Department of Human Services has reviewed the status of the sixteen current students and the overall status of the GBSD response to potential child abuse on the basis of confirmed facts gathered in the course of the investigations of all three departments. Therefore, the following conclusions are based on the work of the Attorney General and DECS as well as of the Department of Human Services.

Conclusion 1

SLAPPING, SPANKING, PUNCHING, KICKING, AND HAIR PULLING HAVE BEEN INAPPROPRIATELY USED BY SOME GBSD STAFF AS METHODS OF PHYSICAL CONTROL AND CHILD MANAGEMENT, EVEN THOUGH CORPORAL PUNISHMENT IS OFFICIALLY PROHIBITED BY POLICY. THE SEVERITY OF SOME SPECIFIC INCIDENTS MAY NOT BE SUFFICIENT TO CONSTITUTE IMMEDIATE DANGER TO THE CHILDREN INVOLVED. HOWEVER, THE POTENTIAL FOR SERIOUS HARM IS INCREASED BY THE USE OF THESE METHODS OF CHILD MANAGEMENT.

1. Incidents of excessive physical control of children were frequently cited by individuals interviewed in various components of the GBSD investigation.
2. These methods of physical control and child management were used by persons at the top levels of administration over a period of years. The use was frequent and visible enough to result in a pervasive attitude that such methods were condoned.
3. In a training session on child abuse and neglect conducted by the Department of Human Services and the New England Resource Center on Child Protective Services, the majority of the approximately twenty participants from GBSD indicated that they did not know of effective non-physical methods of child control. They indicated that such measures as grabbing, shoving, and striking back were an effective way to protect themselves from behavior which they could not otherwise control.
4. There are neither clearly defined rules for child management and control, nor clearly specified consequences for breaking those rules. This is particularly troublesome because the children served by GBSD tend to respond to their environment in a physical manner as a means of compensating for lack of normal communication skills. Some children experience substantial frustration with communication and act aggressively toward peers or staff as a result. Houseparents also experience frustration and, when physically hurt by the children, sometimes are not able to employ effective non-physical means of protecting themselves from harm.

Conclusion 2

CHILDREN WERE SEXUALLY EXPLOITED BY AT LEAST TWO GBSD STAFF.

1. All persons known to have sexually exploited students at GBSD have been removed from the facility. The Attorney General will make the decision regarding prosecution.
2. Steps have been taken to assure the safety of children at Baxter from further sexual exploitation.

Conclusion 3

THERE WAS A FAILURE TO REPORT KNOWN OR SUSPECTED PHYSICAL ABUSE AND SEXUAL EXPLOITATION TO THE DEPARTMENT OF HUMAN SERVICES AS REQUIRED BY LAW, RESULTING IN HARM OR THREAT OF HARM TO CHILDREN.

1. GBSD staff failed to report suspected abuse in all but one case, to Child Protective Services prior to the commencement of the Special Review Team evaluation. A single report, made in 1979, was of suspected sexual abuse of a child in her own home. Since the commencement of the Special Review Team, the same GBSD staff person reported three additional instances of suspected sexual abuse of children in their own homes. No other direct reports of suspected abuse were made by any staff of GBSD.
2. Children were subject to sexual abuse in their own homes while indicators of sexual abuse were observed by Baxter staff and went unreported to the Department of Human Services.
 - . In one incident, sexual abuse reported by a staff person to a superior was not reported to Child Protective Services for approximately a year, although it was reported to a parent. GBSD staff had no assurance that the girl was safe.

- . In another incident, a report of suspected sexual abuse was made by GBSD to Child Protective Services, but there was a failure to report that the parents had come to pick up the girl earlier than expected. This resulted in her being exposed to further harm or threat of harm from the person alleged to have sexually abused her.
 - . In another case, infirmary staff failed to report indicators of sexual abuse. Another staff person did make an independent report which led to confirmation of the sexual abuse.
3. GBSD did not have adequate policies and procedures for identifying and reporting suspected abuse and neglect.

Systematic monitoring of unusual physical contact between staff and students was not possible because of a lack of appropriate documentation.

Conclusion 4

THERE ARE CURRENTLY CHILDREN AT GBSD FOR WHOM FURTHER PROTECTIVE INTERVENTION OR TREATMENT IS REQUIRED.

1. The Department of Educational and Cultural Services has assessed the treatment needs and developed a treatment plan for each student now at GBSD who was sexually exploited or who suffered repeated instances of inappropriate physical discipline or control.
2. The Department of Human Services has assured that the students are protected from further harm and that any necessary treatment is provided. Whenever possible, specific follow-up activities should be carried out by DECS and the Department of Human Services role should be consultative rather than direct.

G. RECOMMENDATIONS

1. DECS should develop policies and procedures and provide adequate staff training to assure:
 - a. that reporting of suspected child abuse and neglect to Child Protective Services is completed according to law;
 - b. that reports of unusual physical contact which are potentially harmful are made to the Department of Educational and Cultural Services or the Administration of GBSD and that all incidents are monitored;
 - c. that corrective action plans are developed in regard to any incidents or patterns of violations of policies.
2. Policies governing methods of discipline and child management should be periodically reviewed and updated. There should be specific procedures developed for monitoring implementation, and for any necessary corrective action.
3. Staff should be periodically trained in:
 - a. behavior management techniques and use of physical restraint;
 - b. indicators of child abuse and neglect including the dynamics and effects of sexual abuse;
 - c. procedures for reporting suspected child abuse and neglect.
4. DECS, in cooperation with Department of Human Services, should continue to assure that treatment needs of individual children are assessed, that a comprehensive treatment plan is completed for each. Necessary treatment should be provided to all children who have been subject to sexual exploitation or repeated instances of inappropriate physical discipline or control while at GBSD.

SECTION II

Listing of Specific Cases of Alleged Sexual Exploitation or Physical Abuse of Students Who Were at GBSD During the 1981-82 School Year

This section contains information on 16 students during the 1981-82 school year who were subject to allegations of physical or sexual abuse at GBSD. It also contains information on four students (three of whom were also subject to abuse or inappropriate physical discipline or methods of child management at GBSD) who were subject to abuse in their own homes. It includes the nature of the allegation, whether or how it was able to be confirmed, and the disposition or treatment plan for each child. THIS INFORMATION IS CONFIDENTIAL UNDER 22 MRSA SECTION 4008.