

Office of the  
Family & Children's  
**Ombudsman**

**Review of the  
Washington School  
for the Deaf**

**November 2001**

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# EXECUTIVE SUMMARY

The Office of the Family and Children's Ombudsman (OFCO) was established by the Washington State Legislature to investigate complaints involving a child or family involved with child protection or child welfare services, or any child at risk of abuse, neglect or other harm. In addition, OFCO was established to monitor the state's protection of children's health and safety in state-licensed, certified and operated residential facilities. As an independent office within the Office of the Governor, it is OFCO's mission to protect families and children from harmful agency action or inaction, and to facilitate broader systemic improvements.

## **Safety Concerns at the Washington School for the Deaf**

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Pursuant to its authority under RCW 43.06A.030, OFCO has reviewed documented reports of sex-related incidents involving students at the Washington School for the Deaf (WSD) during the 1995-96 through 2000-01 school years. WSD is a state agency that serves deaf and hard-of-hearing children, ages three to 21. WSD provides students with an academic and residential program.

OFCO's review was prompted by student safety concerns raised by WSD parents. At a special legislative hearing in August 1999, the parents of several WSD students expressed concern about several student-on-student sexual incidents, including alleged sexual assaults, that had occurred at the school during the 1998-99 school year. They were also concerned that they had not been notified about students attending WSD who were registered sex offenders. The parents told legislators they did not feel the school was addressing their concerns adequately.

In response to these concerns, WSD's superintendent established a "Blue Ribbon Committee" to review several aspects of WSD's operations, including student safety. In March 2000, the Committee issued a final report with recommendations to the school. In addition, in March 2000, Governor Gary Locke approved Substitute Senate Bill 6361, which set forth several student safety-related directives to the school. Further, in February 2001, following a student-on-student sexual incident at WSD, Governor Locke directed the WSD superintendent to commission two external reviews. One review was to examine student safety in WSD's residential program, while the other review was to examine the school's governance structure. These reports made several recommendations. Following these reports, Governor Locke issued a directive to the WSD superintendent which included several mandates aimed at promoting student safety. WSD is in the process of implementing the Governor's safety directive, along with the safety recommendations of the Blue Ribbon Committee.

## **OFCO's Review**

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This review differs in significant respects from those undertaken by the Blue Ribbon Committee and the external reviewers. Specifically, utilizing confidential records to which the Committee and external reviewers did not have access, OFCO sought to develop an accurate understanding of the nature and extent of sex-related incidents that were reported at WSD. OFCO also sought to examine the response to these incidents by WSD, Child Protective Services (CPS) and law enforcement. Through this effort, OFCO sought to identify systemic or practice issues that may not have been previously identified or fully addressed through the activities described above.

OFCO's investigation encompassed documented reports of sex-related incidents involving students at WSD during the 1995-96 through 2000-01 school years. OFCO reviewed written incident reports, and tracked the responses by WSD, CPS and law enforcement.

# Findings

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## **Incident Documentation and Record Keeping**

OFCO attempted to quantify and classify all reports of alleged student-on-student sexual misconduct at WSD. Through this effort, we hoped to obtain an understanding of the frequency and range of student sexual misconduct at the school and the response to such incidents by WSD, CPS and law enforcement. However, the content and reliability of the information provided through WSD's incident documentation and record-keeping system was inadequate to allow us to reliably identify every report of alleged student-on-student sexual misconduct at WSD.

## **“Serious” Sexual Misconduct**

Working with the records available to us, OFCO attempted to quantify and classify “serious” reports of student-on-student sexual misconduct. For purposes of this report, “serious” reports are those that clearly describe forcible or predatory sexual contact, harassing physical contact and non-physical sexual harassment. OFCO counted 121 reports of serious incidents of student sexual misconduct during the six-year period under review. However, this figure excludes unreported incidents and some reported incidents. For this reason, the number of serious incidents that occurred at WSD may be significantly higher than 121. Due to the lack of comparable data, OFCO was unable to determine how this figure compares to public schools or other residential deaf schools.

## **Repeat Perpetrators**

Most of the serious sexual misconduct reported at WSD during the review period was committed by a relatively small number of troubled students. Specifically, OFCO found that 11 “repeat perpetrators” were responsible for 62 percent of the reports of serious sexual misconduct. These students constituted about 4.5 percent of the total student population in each of the school years under review. All of the repeat perpetrators had severe behavioral and/or mental health issues.

## **WSD’s Management of the Repeat Perpetrators**

WSD enrolled and continued to serve repeat sexual perpetrators despite their serious and chronic behaviors. This practice reflected the school’s mission and values, as well as its interpretation of federal special education requirements. However, WSD’s mission and perceived legal responsibilities were not congruous with the school’s resources. Specifically, WSD lacked the resources necessary to meet the needs of behaviorally disturbed students, including sexually aggressive youth, while also keeping other students safe. The misalignment between mission and resources undermined WSD’s good intentions and worked to the detriment of both the repeat perpetrators and the rest of the student population. The school was simply unable to meet the needs of the repeat perpetrators; in fact, in many cases, the school appeared inadvertently to enable their sexually aggressive behavior. Unfortunately, the misalignment led to the ongoing victimization of other students. It also appeared to have resulted in a culture that tolerated sexual aggression and victimization.

## **Child Protective Services and WSD**

CPS’s involvement at WSD did not result in the protection of students. Although CPS investigated 13 incidents of student-on-student sexual misconduct and identified deficiencies in the supervision provided by the school, it was unable to facilitate necessary safety improvements. This was partially due to the fact that none of CPS’s investigations resulted in a determination that the supervision provided by WSD constituted child neglect. This determination appeared to be problematic in some cases. However, even if CPS had made a finding of neglect, the Division of Licensed Resources (DLR) Licensing section would not have been able to compel WSD to address the deficiencies that led to the neglectful supervision, nor to follow up on CPS’s supervision concerns, because WSD is not a licensed facility. Thus, unless school administrators agree to address safety deficiencies or concerns brought to its attention, CPS is not able to protect WSD students.

## **Student Interviews**

In the course of this review, OFCO met with 13 WSD students and asked them to share their thoughts about the school. The clearest theme to emerge from these interviews was the students' view of WSD as a vital educational resource for deaf students. Another theme pertained to safety. Without being asked directly, all of the students mentioned that they felt safe at WSD. In fact, some students said that recent safety measures instituted by the school have gone too far and threaten to take away their opportunity for a "normal" school experience.

## **Recommendations**

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### **1. Incident Documentation and Record Keeping**

WSD should, in consultation with persons with the appropriate expertise, design and implement an integrated incident documentation system that provides administrators with the information they need to continuously evaluate and improve student safety at WSD. The system should ensure the recording of critical incident information and have the capacity to track reports and identify patterns. In addition, the school should develop standardized documentation, incident management, and incident response procedures.

### **2. Behaviorally Disturbed Students**

WSD should, in consultation with persons with the appropriate expertise, develop a system for managing and serving severely behaviorally disturbed students. The system should include clear disciplinary procedures that include objective criteria establishing when a behaviorally disturbed student must be removed from the general student population, either by expulsion or placement in a specialized program. In addition, WSD should establish a school within WSD for severely behaviorally disturbed (SBD) students so they can study, recreate and reside apart from the other students. This school should have the appropriate expertise and resources necessary to recognize and meet the needs of SBD students, including sexually aggressive students.

### **3. Expert Consultation on Sexual Aggression and Victimization**

WSD should obtain expert consultation on sexual aggression and victimization issues to: 1) assist with the identification of sexually aggressive students in a timely manner; 2) assist with refining the current training curriculum to improve staff awareness and understanding of sexual aggression and victimization, and 3) assist with the development of a protocol for assessing and addressing the needs of student victims.

### **4. CPS and DLR Licensing**

The Governor or the Legislature should formalize and strengthen the relationship between CPS and WSD. Specifically, CPS should be formally authorized to investigate incidents at WSD involving alleged child abuse or neglect. In addition, DLR should be given authority to follow up on safety-related deficiencies and concerns at WSD and to take action if school administrators do not act to address them. To ensure its permanence, this authority should be established by statute or executive order. In addition, DLR's annual reviews of the operations and staffing of WSD's residential program, as set forth in Governor Locke's safety directive, should be embodied in statute or executive order.

## SECTION ONE

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# BACKGROUND

### **Office of the Family and Children’s Ombudsman**

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The Office of the Family and Children’s Ombudsman (OFCO) was established by the Washington State Legislature to conduct independent and neutral investigations of complaints involving a child or family involved with child protection or child welfare services, or any child at risk of abuse, neglect or other harm. In addition, OFCO was established to monitor the state’s protection of children’s health and safety in state-licensed, certified and operated residential facilities. As an independent office within the Office of the Governor, it is OFCO’s mission to protect families and children from harmful agency action or inaction, and to facilitate broader systemic improvements.

### **Washington School for the Deaf**

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The Washington State School for the Deaf (WSD) is a state agency that serves deaf and hard of hearing children ages three through 21. WSD provides academic and after-school programs for deaf and hard-of-hearing children living in Washington State at no cost to their parents or local school districts.

WSD’s academic program is divided into four departments: Preschool, Elementary, Middle School and High School. The after-school program is comprised of an array of WSD-sponsored activities, including elective academic programs, field trips, recreational sports, outdoor recreation, arts and crafts and social events. These activities are intended to provide WSD students with opportunities to interact with large numbers of peers and adults who have knowledge of American Sign Language (ASL) and deaf culture.

WSD’s after-school program also includes a residential component for students who do not live within commuting distance of the agency. Residential students live on campus during the week, and return to their families on weekends. Residential services are intended to facilitate student access to WSD’s academic program and after-school activities and provide opportunities for tutoring, socialization and the development of independent living skills. Residential students range in age from six to 18 years old.

Student housing at WSD consists of three residential cottages and one dormitory. WSD utilizes a “family living” residential model in which students are placed in same-sex, multi-age “family” groupings. This model seeks to provide students with a “home-like” atmosphere and opportunities for student-to-student mentoring. The three cottages were constructed in 1999. Each cottage has two wings (like a duplex), and each wing houses one family grouping. Two cottages house four family groupings of mixed-age female students, while the third cottage houses two family groupings of mixed-age male students. The dorm houses two family groupings of middle and high school-age male students.

WSD enrolled 142 students during the 2000-01 school year.<sup>1</sup> Of these, 90 (63 percent) were residential students.

WSD is headed by a superintendent, who is appointed by and reports directly to the Governor. The superintendent is assisted by a 13-member Board of Trustees, which advises WSD and the Legislature on the operation of the school and the development of programs for deaf and hard-of-hearing students.

## **Student Safety Concerns at WSD**

At a special legislative hearing held in August 1999, the parents of several WSD students raised concerns about student safety at the school. The parents were particularly concerned about several student-on-student sexual incidents, including alleged sexual assaults, that had occurred at WSD during the 1998-99 school year. They were also concerned that they had not been notified about students attending WSD who were registered sex offenders.<sup>2</sup> The parents told legislators they did not feel the school was addressing their concerns adequately.

In October 1999, WSD's superintendent, Len Aron, established a "Blue Ribbon Committee" to review several aspects of WSD's operations, including student safety, WSD-parent communication, and WSD-community relationships. In March 2000, the Blue Ribbon Committee issued a final report with recommendations to the school. The recommendations called for a variety of changes, including improved incident documentation and safety policies, comprehensive safety training for students and staff, and the development of a base of certified interpreters to improve the response time by law enforcement to school-related incidents.

Additionally, in January 2000, state Senator Joseph Zarelli introduced Senate Bill 6361, which set forth several student safety-related directives to the school. Governor Gary Locke approved a modified version of the bill in March 2000.<sup>3</sup> Substitute Senate Bill 6361 (SSB 6361) required WSD to notify parents about the presence of students who are registered sex offenders. The modified bill also directed WSD to develop student safety and protection policies in specific areas, provide staff with student-safety training, and provide students with anti-abuse training. The bill also required the school to assess potentially sexually aggressive students and develop procedures for their placement and supervision in the residential program. In addition to passing SSB 6361, the Legislature appropriated funds for student-safety training.

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<sup>1</sup> WSD also provides an outreach program. This program served an additional 50 students in the 2000-01 school year.

<sup>2</sup> State law authorizes public agencies to notify the public about adjudicated juvenile sex offenders when necessary "to protect the public and counteract the danger created by the particular offender." RCW 4.24.550(1).

<sup>3</sup> 2000 Laws of Washington, Chapter 125. Codified at 72.40 RCW.

## Action by Governor Locke

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In February 2001, Governor Locke directed WSD's superintendent to commission two external reviews. Governor Locke's directive was prompted by a student-on-student sexual incident that occurred earlier that month in one of the residential cottages. One review was to examine student safety in WSD's residential program, and the other review was to examine the school's governance structure. The reviews resulted in written reports that were completed in June 2001.

The residential program report made several recommendations to the school, including improved integration of the academic and residential programs, development of written supervision policies, additional supervision in student residences and on buses, and increased student anti-abuse training. The governance report recommended the establishment of an independent Board of Directors.

After receiving the reports, Governor Locke issued a directive to the WSD superintendent. The directive was aimed at promoting student safety and required the school to:

- Strengthen the school's admission policy to refuse admission to students who pose a risk to themselves or others, unless an appropriate safety plan can be put in place;
- Develop a written expulsion policy for students who pose a serious threat to themselves or others;
- Develop a staffing model that ensures adequate staff coverage and student supervision for the school's after-school, residential and transportation programs;
- Develop a training curriculum for staff on emotional and behavioral disturbances in children;
- Select and implement a school-wide anti-abuse training for students;
- Strengthen communication among staff and between the academic and after-school programs;
- Refine the student behavioral management policy to make it developmentally appropriate for the mixed age group living at the school and;
- Ensure the school's incident documentation and reporting practices comply with best practice models.

Governor Locke also appointed an independent monitoring panel, composed of community members with expertise in different aspects of child safety, to work with the school in the implementation of his directive.<sup>4</sup>

In addition, Governor Locke directed the Department of Social and Health Services (DSHS), Division of Licensed Resources (DLR), to conduct annual reviews of the operations and staffing of the school's residential program with an emphasis on ensuring student safety. Further, the Governor indicated that he would commission a review of national best practices in mixed-age residential programs to obtain additional information about practices that promote student safety in this setting. Finally, Governor Locke directed the WSD superintendent to work with legislators and the Governor's staff to explore options for a revised governance structure.

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<sup>4</sup> WSD is currently in the process of implementing Governor Locke's safety directive, along with the safety recommendations of the Blue Ribbon Committee. The Governor's Safety Changes Monitoring Panel is overseeing the implementation of the Governor's directive, as well as providing feedback to the Governor on the content of WSD's policy, procedure and practice changes.

## OFCO's Review

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OFCO initiated a preliminary review of sex-related incidents in August 1999, in response to the concerns raised by WSD parents in the special legislative hearing.<sup>5</sup> During this review, in September 1999, Senator Zarelli filed a request with OFCO for a full investigation of WSD. However, after the Blue Ribbon Committee was established in October, OFCO's director temporarily suspended further investigation pending completion of the Committee's review. After the Blue Ribbon Committee completed its report and Governor Locke approved SSB 6361 in March 2000, OFCO decided not to resume its investigation until the 2000-01 school year, when it could also assess WSD's implementation of the Blue Ribbon Committee's recommendations and the directives in SSB 6361.

OFCO resumed its investigation in November 2000. The content and focus of OFCO's review differed in significant respects from those undertaken by the Blue Ribbon Committee and the external reviewers. Specifically, utilizing confidential records to which the Committee and external reviewers did not have access, OFCO sought to develop an accurate understanding of the nature and extent of sex-related incidents that were reported at WSD. OFCO also sought to examine the response to these incidents by WSD, Child Protective Services (CPS) and law enforcement. Through this effort, OFCO sought to identify systemic or practice issues that may not have been previously identified or fully addressed through the activities described earlier.

OFCO's investigation encompassed documented reports of sex-related incidents involving students at WSD during the 1995-96 through 2000-01 school years. OFCO reviewed written incident reports, and tracked the responses by WSD, CPS, and law enforcement. Specifically, OFCO:

Examined over four thousand pages of documents,<sup>6</sup> including:

- WSD student behavior reports;
- WSD student and personnel records;
- WSD reports to law enforcement and Child Protective Services (CPS);
- Vancouver Police Department incident and investigation reports;
- Juvenile adjudication and adult criminal conviction records;
- CPS investigation reports and CAMIS intake entries;<sup>7</sup>
- Division of Child and Family Services (DCFS) child welfare records.

Conducted interviews of the following individuals:

- Current WSD students;
- Current and former WSD administrators and staff;
- Current and former administrators and CPS investigators with the DSHS Division of Licensed Resources (DLR).

Consulted with individuals with expertise in:

- Sexual assault and law enforcement;
- Children's mental health; and
- Special education law and policy.

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<sup>5</sup> OFCO is authorized by law to conduct investigations on its own initiative. RCW 43.06A.030(2).

<sup>6</sup> Not all of these documents pertained to sex-related incidents.

<sup>7</sup> The Case and Management Information System (CAMIS) is the statewide, automated case management system of the DSHS Children's Administration.

## SECTION TWO

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# INCIDENT DOCUMENTATION AND RECORD KEEPING

Upon completing a comprehensive review of documented reports of sex-related incidents at WSD during the 1995-96 to 2000-01 school years, OFCO attempted to quantify and classify reports of alleged student-on-student sexual misconduct.<sup>1</sup> Through this effort, we hoped to obtain an understanding of the frequency and range of student sexual misconduct at WSD and the response to such incidents by WSD, Child Protective Services (CPS), and law enforcement.

Our review included the examination of WSD, Child Protective Services (CPS), and law enforcement records. Because many incidents at WSD were not reportable to CPS or the police, WSD records were a vital source of information.

### **WSD Incident Documentation**

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During the period under review, WSD documented reports of student misconduct as follows:

***Behavior Report form:*** WSD staff recorded a wide range of reports on Behavior Report forms (these forms sometimes had different titles, and some lacked any title.) Behavior Report forms were completed by school and dorm staff, and signed by a supervisor. The forms described incidents ranging in content from a parent's contact with a dorm counselor, to minor disruptive or non-compliant student behavior observed by the school or dorm staff, to student reports of serious misconduct by other students or staff.

***Incident Report form:*** WSD staff documented their reports to CPS and the police on Incident Report forms. Like Behavior Report forms, these forms were completed by school and dorm staff, and signed by their supervisor.

***Suspension Checklist form:*** WSD documented student suspensions on a Suspension Checklist form. This form recorded the school's notification of the student's parent about the suspension and the student's due process rights.

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<sup>1</sup> Our review also encompassed reports of staff-on-student sexual misconduct. Because we found few such reports, they are not a focus of this report. However, OFCO strongly recommends that WSD adopt rigorous screening practices for staff, such as those set forth by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the ABA Center on Children and the Law. See OJJDP, *Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals with Disabilities in Need of Support* (April 1998); ABA Center on Children and the Law, *Effective Screening of Child Care/Youth Service Workers* (1994). In addition, WSD should adopt a policy requiring the school to initiate an Oregon state criminal background check on volunteers at the school who reside in Oregon. Currently, WSD initiates a Washington state criminal background check on volunteers. However, this background check does not identify arrests or convictions in Oregon. Thus, volunteers from Oregon are not subjected to the same level of scrutiny as in-state volunteers. This gap may leave students at risk of harm.

## WSD Record Keeping

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Behavior Report, Incident Report, and Suspension Checklist forms were forwarded to the Superintendent's Office where they are filed in the following locations:

***Student file:*** Original Behavior Report forms and Suspension Checklist forms are stored in the student's permanent file.<sup>2</sup> Due to confidentiality considerations, Incident Report forms are not placed in student files.

***Student Behavior file:*** Copies of Behavior Report forms and Suspension Checklist forms are stored in a central Student Behavior file. Behavior Report forms are filed by month for each school year. Suspension Checklist forms are filed separately by calendar year.

***Incident Report File:*** Copies of Incident Report forms are stored in a central Incident Report file (the originals are sent to CPS or the police.) Incident Report forms are entered into a log by the Superintendent's executive assistant and then filed in binders in chronological order by school year. Copies of CPS investigation reports are also stored in these binders. However, the binders do not contain copies of police investigation reports because these reports are not provided to WSD.

## Missing and Incomplete Records

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In the course of our review, we observed that Behavior Report, Incident Report and Suspension Checklist forms were often missing or contained incomplete or insufficiently detailed information about the incident. Specifically, we observed that:

- CPS and police records referred to incidents reported by WSD for which there was no WSD Incident Report form on file.
- CPS records referred to WSD Behavior Report forms that OFCO did not find in the student's permanent file or in the Student Behavior file.
- The Behavior Report and Incident Report forms often lacked critical information, including the number and ages of the students involved in the incident or the time and location of the incident. For example, records examined by OFCO often indicated that a student had done something to "several students" without identifying names or ages. Moreover, these records often lacked a clear description of the alleged conduct. For example, one form indicated that a student had touched another student's "bottom," while another form indicated that a student had "grabbed" or "touched" another student without indicating whether the contact was sexual in nature. Consequently, unless there was also a CPS or police report that more clearly described the incident(s), OFCO often could not evaluate the extent or nature of the reported misconduct.

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<sup>2</sup> In many of the student files we reviewed, the Behavior Report and Suspension Checklist forms were not organized by date, and many files contained large numbers of duplicate copies. This made reviewing these files exceedingly difficult as several students had generated literal hundreds of Behavior Report forms during their enrollment at WSD.

- The Suspension Checklist form did not provide a date or description of the incident that gave rise to the suspension, nor did it indicate the length of the suspension. Occasionally, handwritten notes contained this information. (The Suspension Checklist forms were not attached to a corresponding Behavior Report or Incident Report form.)
- Although most Behavior Report forms had an “Action Taken” section, they often did not indicate whether and how the school responded to the incident. Therefore, to determine whether the student was suspended or the school made a report to CPS or the police, it was necessary to consult other records. In some cases, we could not locate the corresponding Suspension Checklist form or Incident Report form, and therefore were unable to determine whether and how the school responded to an incident recorded on a Behavior Report form.
- Incident Report forms rarely indicated whether and how CPS or the police responded to WSD’s report.

## Findings and Conclusions

Reports of student-on-student misconduct at WSD appear to have been documented by staff on a fairly regular basis.<sup>3</sup> Because routine incident documentation is consistent with best practice, school administrators should continue to encourage and support this practice.

However, the reports often lacked critical information about the incident, such as number and ages of the students involved, the incident time and location, and the specific misconduct that was observed or alleged. Most reports also did not indicate whether or how WSD responded to the incident or, if the school reported the incident to CPS or the police, whether or how those systems responded. Further, the reports were documented on different types of forms, which were filed in different locations and sometimes missing from the appropriate file. This “system” of incident documentation and record keeping made it extraordinarily difficult, and in some cases impossible, to reliably track or evaluate reports of student misconduct and the response to such reports by the school, CPS or the police. It also made it exceedingly difficult to identify incident or CPS/police reporting trends and patterns.

The content and reliability of the information provided through WSD’s incident documentation and record-keeping system was inadequate to meet the needs of OFCO in this external review. Specifically, we were unable to reliably identify and classify every report of alleged student-on-student sexual misconduct at WSD. More important, however, the system could not provide school administrators with the information they needed to effectively evaluate and improve student safety at WSD.

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<sup>3</sup> WSD staff also routinely reported incidents to CPS and police. However, we found significant inconsistencies in the types of incidents that were reported. WSD staff often reported relatively minor student-on-student misconduct, while occasionally failing to report more serious misconduct. The inconsistency in the types of incidents reported suggested a lack of understanding by WSD staff about their reporting obligation. In addition, we found that WSD staff referred students to the police for physical aggression more consistently than they did for sexual aggression. It appears that the CPS reporting issue is now being addressed through annual training sessions that include a presentation by CPS. Moreover, the presence of an on-site safety resource officer from the Vancouver Police Department should help to ensure that reports are appropriately referred to the police.



## SECTION THREE

# STUDENT SEXUAL MISCONDUCT

Because of the documentation and record-keeping issues described in Section 2, OFCO found that we could not reliably determine the full extent or range of student-on-student sexual misconduct at WSD. Nevertheless, working with all of the records available to us, OFCO attempted to quantify and classify “serious” reports of student-on-student sexual misconduct.

### “Serious” Reports of Student Misconduct

For the purposes of this report, “serious” reports are those that clearly describe forcible or predatory sexual contact, harassing sexual contact and non-physical sexual harassment. OFCO’s identification and categorization of “serious” reports was based upon our best judgment after examining the conduct and circumstances as described in WSD, CPS, and police records.

Reports of serious sexual misconduct are quantified and classified in Table 1, on the next page. In light of the scope of OFCO’s review and the documentation issues described earlier, the following guidelines should be kept in mind when reviewing Table 1:

- This review encompasses *reported* incidents only. In many records examined by OFCO, victims expressed or demonstrated reluctance to report student sexual misconduct to staff. Thus, the number of reported instances should not be construed as an accurate reflection of the number of actual incidents.
- A report was counted once, even though it may have indicated that the sexual misconduct happened several times (e.g., “Sara reports that Ben has been touching her breast for a couple of months”). This resulted in the undercounting of “serious” reports.
- A report was counted once, even though it may have indicated that the sexual misconduct was also perpetrated against other students (e.g., “Missy reports that Tom offered her money to have sex with him, and has done this before to her friends”). This resulted in the undercounting of “serious” reports.
- A report may not have been placed in the appropriate “serious” category because it was not possible to ascertain its seriousness from the description. For example, sexual contact may have been reported as “unwanted” (and therefore categorized as Harassing Sexual Contact), even though it was in fact accomplished by threat or force (and therefore should have been categorized as Forcible Sexual Contact).
- Many reports describing inappropriate behavior were not identified as “serious,” and therefore are not included in Table 1, because it was not possible to determine whether the conduct was sexual (e.g., “Billy reports that Marsha slapped his butt”).
- Many reports describing contact that appeared to be sexual in nature were not identified as “serious,” and therefore are not included in Table 1, because the contact appeared either to be a quick, one-time, touch by a student who had not been reported previously for inappropriate touching, or consensual age-appropriate petting between peer-age students.
- This review encompasses *sexual misconduct* only. Although OFCO reviewed many reports involving student-on-student threats and physical assaults, they are not reflected here.

As Table 1 indicates, 121 serious incidents of student-on-student sexual misconduct were reported at WSD during the period of review. However, this figure excludes some reported incidents. This is because reports describing multiple sex-related incidents were counted once, as the reports often did not specify the exact number of incidents.

**Table 1**

<b>REPORTS OF SERIOUS STUDENT-ON-STUDENT SEXUAL MISCONDUCT AT WASHINGTON SCHOOL FOR THE DEAF BY ACADEMIC YEAR</b>							
<b>Type of Conduct*</b>	<b>1995-1996</b>	<b>1996-1997</b>	<b>1997-1998</b>	<b>1998-1999</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>Total</b>
Forcible or Predatory Sexual Contact	0	2	0	5	0	4**	11
Harassing Sexual Contact	9	6	6	27	9	6	63
Non-Physical Sexual Harassment	8	8	1	24	5	1	47
<b>Total</b>	<b>17</b>	<b>16</b>	<b>7</b>	<b>56</b>	<b>14</b>	<b>11</b>	<b>121</b>

**\* Definitions of Conduct Type:**

**Forcible or Predatory Sexual Contact:** Includes intercourse or other sexual contact (other than a kiss or hug) accompanied overt force, threat, or intimidation. Also includes unwanted intercourse or other penetration initiated by a student with a history of sexual predatory behavior and involving an “unwitting” victim (but not accompanied by overt coercion).

**Harassing Sexual Contact:** Includes the following:

- Hugs and kisses accomplished by force;
- Unwanted sexual touching that is more intimate/sustained than a quick grab or touch;
- Unwanted sexual grabs or touches that occurred after the perpetrator was warned and counseled about the behavior;
- Unwanted sexual grabs or touches where such force is applied that the grab or touch leaves a bruise on the victim;
- An incident of anal intercourse between two 10-year-old students that was initiated by a highly sexualized student and “taught” to the other student.

**Non-Physical Sexual Harassment:** Includes intense sexual teasing, asking for sexual favors, and offers of money for sex. Also includes incidents of exposing and older boys masturbating in the shower in front of younger boys.

\*\*This figure counts twice a report that involved two victims. This figure also includes a report that was made during this school year, but for which the incident date is not known.

*Source: Office of the Family and Children's Ombudsman*

*November 2001*

As Table 2 indicates, serious incidents of student sexual misconduct overall were reported as having occurred most frequently at school or on WSD-sponsored transportation. However, forcible and predatory incidents occurred most frequently at school or in the dorms or cottages. OFCO could not determine the location of a substantial number of incidents, as reports often did not specify where the incident occurred.

**Table 2**

<b>REPORTS OF SERIOUS STUDENT-ON-STUDENT SEXUAL MISCONDUCT AT WASHINGTON SCHOOL FOR THE DEAF BY LOCATION (1995-96 to 2000-01)</b>					
<b>Type of Conduct</b>	<b>Dorm/Cottage</b>	<b>School</b>	<b>Transportation</b>	<b>Unknown*</b>	<b>Total</b>
Forcible or Predatory Sexual Contact	3	4	2	2	<b>11</b>
Harassing Sexual Contact	7	15	15	26	<b>63</b>
Non-Physical Sexual Harassment	10	8	9	20	<b>47</b>
<b>Total</b>	<b>20</b>	<b>27</b>	<b>26</b>	<b>48</b>	<b>121</b>

\*Location could not be ascertained from the records.

*Source: Office of the Family and Children's Ombudsman*

*November 2001*

## **Repeat Perpetrators**

In the process of quantifying and classifying reports of serious student-on-student sexual misconduct at WSD, OFCO found that that 11 students appeared repeatedly as perpetrators. When we analyzed the data, we found that these "repeat perpetrators" were responsible for 62 percent of the reports of serious sexual misconduct at WSD. These data are depicted in Table 3, on the next page.

**Table 3**

<b>REPORTS OF SERIOUS STUDENT SEXUAL MISCONDUCT AT WASHINGTON SCHOOL FOR THE DEAF BY "REPEAT PERPRETRATORS" (1995-96 to 2000-01)</b>			
<b>Type of Conduct</b>	<b>Number of Reported Incidents</b>	<b>Number by "Repeat Perpetrators"</b>	<b>Percentage by "Repeat Perpetrators"</b>
Forcible or Predatory Sexual Contact	11	8	73%
Harassing Sexual Contact	63	42	67%
Non-Physical Sexual Harassment	47	25	53%
<b>Total</b>	<b>121</b>	<b>75</b>	<b>62%</b>

*Source: Office of the Family and Children's Ombudsman*

*November 2001*

As Table 4 indicates, there were on average seven "repeat perpetrators" in attendance at WSD during each school year in the period under review. WSD's average enrollment during the review period was 152. This means that the repeat perpetrators comprised about 4.5 percent of the total student population in each school year.

**Table 4**

<b>"REPEAT PERPETRATORS" ENROLLED AT WASHINGTON SCHOOL FOR THE DEAF BY SCHOOL YEAR</b>						
<b>Repeat Perpetrator</b>	<b>95-96</b>	<b>96-97</b>	<b>97-98</b>	<b>98-99</b>	<b>99-00</b>	<b>00-01</b>
1	*	*	*	*	*	
2	*	*	*	*	*	
3	*	*	*	*	*	
4	*	*	*	*		
5	*	*	*	*		
6		*	*	*	*	*
7		*	*	*	*	
8		*	*	*		
9				*	*	*
10				*		
11				*		

*Source: Office of the Family and Children's Ombudsman*

*November 2001*

OFCO found that the 11 “repeat perpetrators” shared certain characteristics. All are male and were residential students for most of their tenure at WSD. Most entered WSD at a relatively young age; seven enrolled at age 11 or younger. Most all began acting out sexually with other students shortly after they arrived at WSD. Many had documented histories of sexually inappropriate behavior at their previous schools. Five had histories of documented abuse or neglect by their parents or other caretakers.

Several of the repeat perpetrators appear to have been severely behaviorally disturbed, as reflected by their extensive histories of acting out in sexual and other ways. Others appeared to have serious mental health and/or sexual aggression issues, as reflected by their histories of sexually predatory or violent behavior, or age-inappropriate sexual behavior. The sexually aggressive and acting out histories of these students during their enrollment at WSD are described more fully in Appendix A.

## **Findings and Conclusions**

OFCO counted 121 reports of “serious” incidents of student-on-student sexual misconduct at WSD during the six-year period under review. Serious incidents are defined as reports of forcible or predatory sexual contact, harassing sexual contact and non-physical sexual harassment. However, this figure excludes unreported incidents and some reported incidents. In records examined by OFCO, students often demonstrated or expressed reluctance in reporting sexual misconduct. This strongly suggests that some incidents were not reported. Unreported incidents were not counted by OFCO. Moreover, many reports indicated that the sexual misconduct had occurred on more than one occasion, but did not specify how often. These reports were counted by OFCO only once. For these reasons, the number of serious incidents that occurred at WSD during the review period may be significantly higher than 121. Due to the lack of comparable data, OFCO was unable to determine how this figure compares to public schools or other residential deaf schools.

Student safety issues at WSD did not appear to be confined to a single program or location. Based on the reports that contained information on incident location, OFCO found that serious incidents of sexual misconduct were reported as having occurred at school, in the dorms and cottages, and on buses and airplanes in fairly even numbers. This indicates that safety-improvement efforts likewise should not be confined to a specific program or location.

Most of the serious sexual misconduct reported at WSD during the review period was committed by a relatively small number of seriously troubled students. Specifically, OFCO found that 11 “repeat perpetrators” were responsible for 62 percent of the reports of serious sexual misconduct at WSD. These students constituted about 4.5 percent of the total student population in each of the school years under review. Notably, the dramatic increase in the number of reported serious incidents at WSD during the 1998-99 school year coincided with the presence of all 11 repeat perpetrators at the school.<sup>1</sup> All of the repeat perpetrators had severe behavioral and/or mental health issues. These data indicate that WSD was unable to manage these seriously troubled students effectively.

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<sup>1</sup> The marked increase also coincided with the limited availability of supervisory staff at WSD during that school year. See p. 19 .



## SECTION FOUR

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# REPEAT PERPETRATORS

A striking feature of the serious student-on-student sexual misconduct reported at the Washington School for the Deaf (WSD) during the period under review is that 62 percent was perpetrated by a relatively small number of repeat perpetrators. Many of the repeat perpetrators were also frequently identified in reports accusing them of threatening and physically assaulting other students. Because they continued to act out repeatedly in sexual and other ways WSD's efforts to manage these students is the focus of this section.

### **WSD Philosophy re: Behaviorally Disturbed Students**

As Section 3 indicates, WSD enrolled and continued to serve the repeat perpetrators despite their known histories and behaviors. Based on our review of records and interviews with WSD administrators and staff, it is clear this practice reflected WSD's view of its mission. It is the school's mission to provide deaf and hard of hearing students with the opportunity to access "a linguistically, culturally, and socially accessible learning environment." According to administrators and staff, because of the isolation that many deaf children feel in hearing culture, a particularly vital aspect of WSD's mission is to provide deaf students with access to deaf culture. Referring to the painful isolation that she said many deaf students feel at home and in their local schools, a former WSD staff person told OFCO, "This school has literally saved lives."

Complementing the school's sense of mission is the commitment by staff to WSD students. Of particular note is its determination not to "give up" on behaviorally disturbed students. WSD administrators and staff told OFCO they are aware that most behaviorally disturbed students come from troubled homes and/or have their own histories of victimization. They also know that few, if any, educational or other service alternatives exist for behaviorally disturbed deaf children, and that many would be without a caring "family" to support them if they were to leave. As one WSD administrator told OFCO, "We become their fathers, mothers, their substitute parent. It's hard to step out of that."

These deeply ingrained institutional values are reinforced by the belief that WSD may not legally "give up" on behaviorally disturbed students. Deaf and hard-of-hearing students at WSD meet the federal definition of a "special education student," which entitles them to receive a "free appropriate public education."<sup>1</sup> This entitlement includes the provision of special education and related services in the least restrictive environment. According to WSD administrators, federal special education law requires the provision of an "appropriate" education to all deaf students, including those that are behaviorally disturbed. In their view, an "appropriate" education means one that provides access to deaf culture.

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<sup>1</sup> Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq.

# **IEP Teams: How Repeat Perpetrators Were Managed at WSD**

The repeat perpetrators identified in Section 3 were managed primarily by “IEP” teams. Pursuant to federal law, IEP teams are responsible for developing and monitoring for each special education student an “individualized education program” (IEP).<sup>2</sup> IEPs set forth individualized performance goals and the special education and related services necessary to achieve the goals. The school is required to provide services in accordance with the student’s IEP.

## **Case Examples**

As illustrated by the following case examples, IEP teams struggled to meet the needs of the repeat perpetrators, while also trying to protect other students from them. The IEP teams utilized a variety of strategies and techniques, including: suspensions and loss of privileges; one-on-one supervision; behavioral intervention and modification programs, and intensive counseling. However, these efforts often failed, and the repeat perpetrators found ways to continue to act out in sexual and other ways.

The case examples are derived from information obtained from WSD, Child Protective Services (CPS), police, and court records. Readers are advised that the content of the examples may be disturbing. We carefully considered whether to include actual case examples in this report. We decided to do so after concluding they were necessary to adequately convey the challenges faced by the IEP teams in managing the repeat perpetrators and the impact on other students resulting from the school’s inability to protect them from these sexually aggressive students. The students in the examples are repeat perpetrators. Their names have been changed to protect their privacy.

### **Evan**

Over a period of two-and-a-half years, Evan had been accused several times of attempting to engage in anal intercourse with peer-age male students. After a subsequent incident, in which it was determined that Evan had been “sexually involved” with two younger students, his IEP team recommended that he receive a long-term suspension through the end of the school year. During the IEP meeting, the team documented the following concerns: “How can we provide a safe environment for [Evan] and other students? Many interventions have been tried in the past and have had limited effectiveness. . . . Long term suspension is appropriate because we cannot guarantee that [Evan] will maintain legal behavior. A strong possibility exists that he will engage in behavior leading to the need for WSD to contact police. Repeated interventions have had little or no effect on reducing [Evan’s] negative behaviors. New interventions need to be found and tried.”

Two-and-a-half years later, Evan’s IEP team met to assess his IEP. In convening the meeting, the team observed that despite a one-on-one aide in school and in the dorm and a behavioral modification program which have been in place for over two years, Evan’s “aggressive and noncompliant behaviors continue . . .” Records from this period indicate that Evan was the subject of several suspensions and literally hundreds of student behavior reports which described many incidents of physically and sexually aggressive behaviors.

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<sup>2</sup> A student’s IEP team must by law include the student’s parent, a general education teacher, a special education teacher, a representative of the school who “is knowledgeable about the availability of resources” at the school, and an individual “who can interpret the instructional implications of evaluation results”. The team may also include the student and other individuals with knowledge or special expertise regarding the student. For example, the IEP teams of several repeat perpetrators included a therapist from a community mental health agency. IEP teams must meet at least annually to review and revise as necessary the student’s IEP to ensure that the performance goals are being achieved. The IEP team may meet more frequently if conditions warrant.

Early in the next school year, Evan was suspended for sexually harassing and threatening a female student, and for physically assaulting several other female students. The physical assaults led to a criminal conviction for fourth degree assault. Later that same year, WSD received a report that Evan had masturbated on the bus in front of a female student. Evan was receiving sex offender treatment during this school year.

### **Bill**

Bill's IEP team met following a fire-setting incident for which he was suspended. In a subsequent meeting, the IEP team noted that Bill had first been referred to counseling six years earlier for "inappropriate behaviors." The team recommended the implementation of a behavioral plan and continued outpatient therapy.

The following school year, a male student reported to WSD staff that Bill had sexually harassed him. (School records indicate that the complaining student withdrew from WSD because of this incident.) Later that same year, Bill's IEP team convened again, after an anti-harassment protection order was entered by the court prohibiting Bill from harassing, signing or approaching another WSD student. In the meeting, the IEP team noted that Bill was on medication "for ADD and harassing behaviors . . . [Bill] is clinically depressed. He is in a classroom by himself and has been making comments about making bombs." The IEP team notes indicate, "all behavioral and level systems have not worked for him. Plan is to provide [Bill] with [a] new program at WSD." Two months later, Bill was suspended for "lewd conduct – touching two girls inappropriately."

### **Cliff**

Cliff's IEP team met to discuss recent reports of his inappropriate sexual touching. Two female students had reported to WSD staff that they had been "repeatedly grabbed and touched in the groin and breast area" by Cliff. They told staff they had a "touching problem with [Cliff] only." The IEP team noted that Cliff "previously has grabbed women's breasts and shown violence toward certain females." The team developed a plan to provide Cliff "with socially appropriate replacement behaviors in addition with providing him with 24 hour supervision. [Cliff] will receive 24 hour watch. Not permitted to be alone with students without supervision. Will be moved to own room in dorm."

Two years later, Cliff was in WSD's Adaptive Learning Program<sup>3</sup> and had been assigned a one-on-one classroom aide to continuously monitor his behavior. At this time, WSD contacted CPS to report that Cliff was exposing other students to "inappropriate sexual behavior, some inappropriate sexual touching too." According to the report, Cliff "has been extremely sexual with other children, having difficulties setting boundaries. . . he believes he sees a ghost and the ghost told him to have sex with other students. He has scared [another student] by telling her these things. He has bumped into her well-developed chest at least 12 times. [He] has been giving much attention to a younger child. . . talking about rape . . . Language was very graphic." One month after the report to CPS, Cliff's dorm roommates reported to WSD staff that Cliff "jumps on his bed [and] performs sexual [intercourse] on an imaginary person."

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<sup>3</sup> The Adaptive Learning Program provides additional classroom supervision and special instruction to students with behavioral issues.

One month later, Cliff's teacher notified school administrators that Cliff "has been perseverating on death and killing in class. I have spent all morning working with [Cliff] and really need to focus on some of the other students." Cliff's teacher also noted this month that "keeping [Cliff] busy is the academic goal. No IEP goals are being met or attempted at this time."

Cliff's teacher also documented during this time that he had been "complaining more in the past month of voices, his brain, devils in his head, telling him to do bad things. [Cliff] is very convinced that he cannot stop these and thus it's not his fault for bad behaviors. We are not accepting of this. We are trying to be very creative with natural and realistic consequences. [Cliff] needs real tangible reasons for not doing harmful or violent acts. We have started a very concrete rulebook with every rule and consequence." The teacher also noted that Cliff "has again started wetting himself."

The next month, Cliff's IEP team sought a psychiatric evaluation after he was suspended for threatening to kill another student, and after he was "caught three times trying to follow female students into non-[Cliff] supervised areas." WSD staff characterized [Cliff's] behavior at this point as "borderline stalking." An IEP team member wrote, "The total drain on staff led us to follow through with [the] recommendation to seek a psychiatric evaluation." Another IEP team member "emphasized that at this time, the psych [sic] concerns overruled deaf cultural issues."

### **Danny**

Danny's IEP team implemented a behavioral assessment, which recommended that he receive "ongoing social skills training." The assessment was conducted after this elementary student admitted to sexual contact with another student while she was asleep on the bus, and after he was suspended twice in one month for physical violence against staff and students. A one-on-one aide was also assigned to monitor Danny's behaviors on the bus and at school.

The next month, Danny was accused of sexually touching another female student. During the following six months, Danny was disciplined for five incidents involving sexual aggressiveness and inappropriate sexual contact with other students. Two of the incidents resulted in suspensions. After these five incidents, Danny's IEP team met to discuss the possibility of a change of placement. Shortly after this meeting, WSD staff received four additional reports on Danny for inappropriate sexual contact with other students. One of these incidents involved "non-coercive" anal intercourse with another peer-age male student. After this incident, a school counselor met with Danny and gave "corrective and preventative information relating to inappropriate touching/flirting, talking and identifying body parts and possible consequences, including calling parents."

## **The 1998-99 School Year**

The challenges associated with managing the repeat perpetrators appear to have been especially difficult during the 1998-99 school year. During that school year, a new WSD administration instituted spending and staffing reductions to address a budget shortfall. These reductions appeared to have limited the availability of one-on-one supervisors in the dorms, and the availability of other supervisory staff as well.

### **Evan**

Evan was assigned a one-on-one aide in school and in the dorm. The next school year, an evaluator recommended that Evan's one-on-one supervision should not be curtailed unless Evan is able to demonstrate "periods of behavioral self control." Following this evaluation, Evan was suspended twice for threatening and physically assaulting other students and staff.

The following school year, Evan's IEP team noted that "in [Evan's] five year history at WSD, an increasing number of restrictions have been placed on [him]." An evaluation indicated that "he is a high risk potential for sex offender behaviors and he needs a sexual treatment program. ... Currently he has 1 on 1 assistants during all of his waking hours and an alarm on his dormdoor. This environment provides the extreme structure that [Evan] seems to need. . . He has such a history at WSD... that staff do not feel it safe for other students to release any of these restrictions." Over the summer, at WSD's insistence, Evan's parents enrolled him in sex offender treatment.

During the 1998-99 school year, Evan started school without a one-on-one supervisor. Shortly after school started, WSD filed a report with the police alleging that Evan had threatened to rape a peer-age female student, and had pinched her breasts, leaving bruises. That same month, WSD reported to police that another female student reported to staff that Evan had been harassing her at school by physically threatening her and her friends if she did not date him. When a police office contacted the school to investigate this report, he received an additional report from a dorm counselor that Evan had assaulted several female students in the dorm social area the previous night.

The next month, a female student reported to WSD staff that Evan had pulled her down to the laundry room in the boy's dorm where he "hugged and French kissed" her. That same month, a member of Evan's IEP team documented her concerns about Evan's "harassment-like behaviors and leading on behaviors" and the fact that he "does not have [a] one on one aide and is basically on his own with our limited supervision." Also that month, in an e-mail to supervisors, dorm staff noted that it has been two months since Evan has been in the dorm without a one-on-one aide, and staff "feel it is time for a staffing to see if there's a program that can be set up to help [Evan] improve his dorm living skills."

## **Zak**

Zak re-enrolled at WSD as a residential student following his release from a juvenile rehabilitation institution. He had been committed to the institution following his conviction for first degree child rape. At the time of his re-enrollment, WSD was notified of Zak's status as a violent sex offender. A few months after his return, Zak was accused of poking a female student in the rectum with a javelin. The following month, WSD filed a report with the police alleging that Zak had masturbated in front of a female student on the bus. A substitute teacher told the police that she was making the report because "he is a registered sex offender ... and may be in need of further counseling."

A year and a half later, shortly after the start of the 1998-99 school year, Beth reported to WSD staff that Zak had sexually molested her. She said she had been sleeping on the bus, and when she awoke, she found Zak fondling her breasts on the outside of her clothes. Zak then proceeded to fondle Beth underneath her clothes and to digitally penetrate her.

After investigating the incident, CPS determined that the supervision provided by WSD did not meet the legal definition of child neglect. However, in its investigation report, CPS noted that WSD staff is "aware of the limited funding for additional staff as the students' behavior become more difficult [sic]. There appears to be a serious lack of funding at this school."

## **Frank**

During the 1998-99 school year, Frank was accused of raping a female student at WSD. While the incident was under investigation by the police and CPS, Frank continued to attend WSD.<sup>4</sup>

After the sexual assault incident, Frank's IEP team met. They identified as a concern, "[Frank's] feelings on returning to school after [his suspension]. How could we support and protect him? [A community service agency] will accept him as a client. [Frank] will receive ongoing counseling in school. A one-on-one assistant will be assigned to watch him. A team member explained that the one-on-one supervisor "will provide [Frank] with a combination of information and protection. The information is provided when [Frank] starts to tease – the assistant can intervene and let him know immediately that this discussion needs to change. By protection, I mean some of the students know what supposedly happened; we do not want [Frank] teased or threatened by other students so the assistant makes sure all interactions are appropriate."

Two months later, an IEP team member noted, "[Frank's] behavior this week is showing escalation in attempts to sexually assault students." The team member noted in particular that Frank has been focusing on another male student whom Frank was constantly touching in class. This same month, Frank was suspended for five days for grabbing a male student's crotch after dinner on the way back to the dorm. Also this month, WSD staff received reports from students about Frank's "influence in driving" group masturbation incidents in the dorm showers. The students expressed concern that, because their dorm counselors are female, they cannot provide direct supervision in the showers.

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<sup>4</sup> Frank was subsequently convicted of third degree rape.

Frank's IEP team met the following month in response to his five-day suspension. The team noted as problem behavior areas, "seemingly premeditated, opportunistic, selective grooming of peers and younger children, verbal and physical acting out towards male and female students..." The team also noted, "while at WSD, [Frank] has a large number of peers in the dorm to choose as targets of his actions. Staff do not feel qualified to handle the counseling necessary to work with [Frank]. They do not feel qualified to determine the reason for his actions. A one-on-one has been appointed to watch him during the school portion of his day..."

Over the next three months, Frank's one-on-one supervisor documented several incidents of grooming-like behaviors by Frank toward other male and female students. The following month, WSD was contacted by a parent of a WSD student who reported that her son had witnessed two male students having sexual intercourse in the bathroom of a residential cottage. When confronted by WSD staff, Frank admitted to having anal intercourse with a younger, special needs male student. A WSD staff person told police that he believed Frank "persuaded the younger boy to [engage in the sexual contact]," and that Frank "is a sexual predator and is targeting these special needs children."

A CPS investigation of this incident determined that WSD's supervision of Frank did not constitute child neglect. However, in its investigation report, CPS also noted, "there appears to be a severe budget constraint that limits the number of staff that can be hired to supervise adequately. [WSD] management has major financial concerns about how to pay for the 1:1 supervision."

### **Greg**

During the 1998-99 school year, Greg was accused of forcibly raping a younger female student at school. The alleged incident occurred in the bathroom near the school cafeteria where both students were working at the time.

Following the alleged assault, CPS conducted an investigation to determine whether the supervision provided by WSD constituted child neglect. CPS determined that WSD kitchen staff was not neglectful "because they were not given information regarding [Greg's] being sexually inappropriate and requiring a higher level of supervision." However, CPS concluded that it could not determine whether WSD as an agency had been neglectful: "[Greg] had 17 incident reports involving sexual inappropriate touching, intercourse and harassment during his residence at WSD.<sup>5</sup> It is reported frequently in these incident reports that [Greg] was not to be with younger female students without an adult present. [Greg] has been suspended ... on two occasions [for] sexually inappropriate behavior. [This investigator] was unable to establish through a review of [Greg's] records if a supervision plan or disciplinary action was taken to monitor [Greg's] behavior. It is unclear if WSD could have foreseen this incident and instituted closer supervision of [Greg]."

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<sup>5</sup> The preceding school year, a WSD staff person had explored the possibility of accessing sexually aggressive youth treatment funds for Greg.

CPS's investigation report included interviews with WSD kitchen staff. One staff person said, "she didn't know who was responsible for supervising the students when they were working in the kitchen." Another staff person said, "there was formerly a house parent who was responsible for supervising the students who worked in the kitchen, but that ended about a year ago and now the kitchen people watch the students, but we don't police them." Later in the report, CPS indicated that staff stated, "this [house parent] position has been discontinued due to financial constraints."

The report went on to say, "[Greg] has a long history of being a child who cannot function in an unstructured residential setting. The [kitchen] staff ... saw their responsibility clearly as 'bosses and supervisors' in relation to work and not in relation to supervision for the health and safety of students in residence at WSD...Given [Greg's] sexually aggressive nature, he should have received close monitoring and supervision."

## **Impact on Victims**

As the previous case examples indicate, the IEP teams focused virtually all of their attention and effort on meeting the needs of the repeat perpetrators. Consistent with their legal obligation, the IEP teams regarded the needs of these students as their first and primary responsibility. In contrast, there is no documentation indicating whether school administrators or staff recognized or considered the impact of these students' aggressive behaviors on their victims and the rest of the student population. Nor is there documentation in student files indicating whether the needs of the victims were assessed and/or addressed by their own IEP teams. Moreover, it is unclear whether the vulnerability of WSD students to sexual victimization was recognized or addressed.

## **Tolerance of Sexually Aggressive Behavior**

The previous case examples indicate that WSD tolerated a high incidence of sexual aggression and acting out by the repeat perpetrators. Although they tried, WSD staff was ineffectual in protecting other students from the repeat perpetrators who, despite their sexually aggressive behavior, continued to attend classes and reside at the school.<sup>6</sup> As the following case example illustrates, this ongoing situation appeared to create and reinforce a culture that "put up" with sexual aggression and victimization. The students' names have been changed in the following example to protect their privacy.

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<sup>6</sup> IEP teams eventually implemented a change of placement for two repeat perpetrators. In another case, WSD apparently terminated the IEP of a repeat perpetrator after a court order was entered that restrained him from being in the vicinity of the school due to his sexualized behavior. The rest of the repeat perpetrators who left WSD, apparently did so on their own. None of these repeat perpetrators was expelled. Federal law allows schools to expel special educational students for behavior that is "substantially likely" to injure the student or others, or other behavior that violates the school's rules or code of conduct. However, such disciplinary action must be imposed pursuant to specified due process procedures. Specifically, within 10 days of the student's removal, the school must conduct a "functional behavioral assessment" (FBA) and implement a behavioral intervention plan as developed by the student's IEP team. If the student already has a FBA, the IEP team must meet to review and modify the FBA to address the behavior. At the same time, the IEP team must conduct a review to determine whether the behavior for which the student is being disciplined is a manifestation of the student's disability or the result of an inappropriate placement. If the IEP team determines that the behavior was not a manifestation of the student's disability or inappropriate placement, then the school may apply applicable disciplinary procedures. The student's parent may challenge the IEP's determination and request a due process hearing. If the IEP team determines that the behavior was a manifestation of the student's ability or the result of an inappropriate placement, then the IEP team must modify the FBA and/or IEP as appropriate.

## **Patty**

WSD contacted CPS to report that Patty had reported “sexual touching and grabbing over the clothes” by Tim on the bus. Patty told the CPS investigator, “I’ve had problems with [Tim] and boys touching me, ... and I’ve told staff.” When asked about the safety at WSD, Patty said, “I like the school, but if a boy bothers a girl, it doesn’t feel safe.” The dorm supervisor told the CPS investigator that Tim “has been told several times to keep his hands to himself. He’s one of our students who requires a lot of supervision. Actually a lot of staff have talked to him about his behavior. A number of us have been talking to him for years.”

The impact of this culture on the victims and other students at WSD is unclear. OFCO could not determine to what extent the “helplessness” demonstrated by WSD staff led students to tolerate more and report less sexual misconduct by their peers. However, such a response is certainly possible. Research shows that “chronic exposure to situations wherein one is unable to terminate powerful aversive stimuli (e.g.,... forced sexual contact) [may] lead to subsequent ‘learned helplessness.’”<sup>7</sup>

## **Disciplining Victims**

On occasion, WSD’s response to student reports of sexual misconduct appeared to be inappropriate and highly likely to discourage future reports. For example, as in the case example below, victims who reported sexual misconduct by a repeat perpetrator were sometimes themselves disciplined because they were perceived as having been complicit in the leading-on or aggressive behavior.

## **Tammy and Becky**

Tammy accused Evan of “forcing himself on her.” (Evan is the student described earlier who had a long history of sexual acting out at WSD). According to school records, Tammy and her friend were visiting the boys’ dorm. Evan, along with another boy, asked the dorm counselor if they all could go to the basement to play pool. The dorm counselor said no. Evan admitted to then pulling Tammy by her arm down to the laundry room in the basement where he “hugged and French kissed” her. Tammy said she didn’t want Evan kissing her, and that she pulled away from him, but he continued hugging her. According to school records, Tammy “admitted” to WSD staff that she did not say the words, “no” or “stop.” When asked why she didn’t tell staff, Tammy said “she was afraid she would be in trouble.”

In response, WSD staff had Evan, Tammy and an advocate for Tammy meet with the school counselor to discuss the incident. The counselor “guided [Tammy] to express her feelings that she isn’t interested in [Evan] and wanting to stay friends.” WSD administrators met with Evan and, according to WSD records, “he responded appropriately to them and sometimes was at the point of tears feeling worried that he might be in trouble.”

WSD records indicate that both Evan and Tammy (and the other two students who were present) were disciplined “for not listening to the counselor to not go to the basement.” In an e-mail to Evan’s

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<sup>7</sup> Briere, J. (1992). *Child Abuse Trauma* (New Berry Park: Sage), p. 26.

sex offender treatment provider, a member of Evan's IEP team wrote, "Generally, we are thrilled to hear that [Evan] did not go across the line with this girl on that night." The team member went on to express concern about Evan's "harassment-like and leading-on behaviors," but that she really does "want [Evan] to succeed in WSD and receive services that would benefit him."

The following school year, another student, Becky, reported to WSD staff that Evan had hit and bitten her on her leg while on the bus. Becky told staff that Evan is "playing around," but at times is rough with her, and has given her bruises on her leg and hit her breasts. She said she had kept this to herself for the past two weeks. When asked why she had not reported these incidents earlier, Becky told staff that she was threatened by another student not to tell anyone. WSD staff "explained to [Becky] about her actions toward [Evan], that she may be sending mixed signals. She tends to rough house with them [sic], as well as getting them all riled up. [Staff] explained the danger of doing this to people around her, how it could be serious or maybe not." Becky was told not to sit with Evan on this bus. In addition, both Becky and Evan were disciplined for "playing too rough."<sup>8</sup>

## **Student Vulnerability**

While some WSD students demonstrated the ability to resist sexually aggressive behavior by their peers, others did not. There appeared to be a variety of factors that made some WSD students vulnerable to sexual victimization. These include: developmental delays; naivete and lack of assertiveness; fear of getting into trouble and; fear of the perpetrators, many of whom were also physically aggressive, and therefore intimidating to other students. Some of these factors are illustrated in the following stories. (Stories with asterisks involve a repeat perpetrator.)

- Frank approached Randy in the dorm bathroom and asked him to have sex. Randy said no. Frank then asked Randy to send in another student. Randy told the other student to meet Frank in the bathroom. The other student has low communication skills and is developmentally delayed, and this was his first year at WSD as a residential student. Frank and the student engaged in anal intercourse. Frank told police the contact was consensual, while the other student told staff he had told Frank, "no, no, no."<sup>\*</sup>
- In the course of describing a sexual incident at school that involved Michael, Alice "admit[ed] she does not have the assertive skills to say 'No!' or 'Stop!' even though she doesn't want it. She is a pleaser and doesn't like to hurt people's feelings. So she allows herself to be a victim." She went on to describe another incident at summer camp in which Michael had fondled her under her clothes. She said she didn't want him to touch her, but she just sat there and "suffered it."
- Beth reported to WSD staff that she was sleeping on the bus, and when she awoke, she found Zak fondling her. (This incident is described earlier.) Beth later told WSD staff, "She didn't do anything because she didn't know the rules and thought she might get into trouble if she screamed or got up and went to the front of the bus." She told police "she felt intimidated so she did not resist although she didn't want [Zak] to touch her." A WSD staff person told police, "it is not unusual for deaf children to do what they are told without resistance." He said Beth's actions "were typical as she knew she must follow the rules on the bus which included not making noise without first receiving permission."<sup>\*</sup>

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<sup>8</sup> That same month, WSD received a report that Evan had tried to "force hug and kiss [a female student] when she was opening the restroom door, but she quickly pushed him away." There is no documented response by WSD to this incident. This incident is not documented in CPS or police records.

- Ryan told WSD staff that his roommate Tony had been fondling him. Ryan said this had occurred “maybe five or six times, usually in their room at night, after the door was closed.” Ryan also said Tony had threatened to “beat [Ryan] up” if he told anyone. When asked how staff became aware of this situation, Ryan explained, “I told someone on the bus. I was upset and crying.”
- Crystal and Ryan reported to WSD staff that they were “pressured” by a group of mostly older male students to fondle each other and to engage in sexual intercourse in a residential cottage. Crystal and Ryan said they didn’t want to engage in sexual contact, but the group repeatedly “insisted” that they perform sexual acts. Crystal and Ryan both told police they weren’t threatened with physical violence and weren’t afraid of any of the other students. However, Crystal said the boys threatened to turn her friends against her if they didn’t have intercourse, while Ryan said he was afraid the boys “wouldn’t be his friends anymore and would call him chicken.” A WSD staff person told police that she felt Crystal “had been coerced or pressured into these acts by the other boys...[Crystal] ... felt it devastating to think the boys would tell everyone to hate her.”

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## Findings and Conclusions

WSD enrolled and continued to serve repeat sexual perpetrators despite their known histories and chronic behaviors. This practice reflected the school’s mission and values, as well as its interpretation of federal special education requirements.<sup>9</sup> The underlying intention – to provide behaviorally disturbed deaf students with educational services that include access to deaf culture – is admirable.

However, WSD’s mission and perceived legal responsibilities were not congruous with the school’s resources. Specifically, WSD lacked the resources necessary to meet the needs of behaviorally disturbed students, including sexually aggressive students, while also keeping other students safe. For example, the school’s IEP teams appeared to lack sufficient expertise to recognize and evaluate either the needs of sexually aggressive and/or mentally ill students or the risks they posed to other students. In addition, the school did not have the capacity to provide these students with the intensive and specialized services they appeared to require. Further, the school appeared to lack adequate numbers of supervisory staff to monitor these students while they attended classes, recreated and resided with the general student population. In fact, the school appeared in general to lack adequate supervisory resources, particularly in the dorms and cottages where students of mixed ages are housed. Finally, school administrators and staff demonstrated limited awareness or understanding of child sexual victimization issues or the needs of child sexual abuse victims.

The misalignment between mission and resources undermined WSD’s good intentions and worked to the detriment of both the repeat sexual perpetrators and the rest of the student population. Due to the lack of appropriate expertise and services, the school was simply unable to meet the needs of these students; in fact, in many cases the school appeared inadvertently to enable their sexually aggressive behavior. Unfortunately, this led to the victimization of other students. Moreover, the misalignment appeared to have resulted in a culture that tolerated sexual aggression and victimization.

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<sup>9</sup>WSD administrators and staff told OFCO they believed they were prevented by special education requirements to expel any of the repeat perpetrators. However, it appears at least arguable that these students’ misconduct met applicable criteria for expulsion (i.e., the misconduct was not a manifestation of the perpetrators’ deafness, nor the result of an inappropriate placement at WSD.) In any event, the school did not test its interpretation of federal requirements by seeking to expel any of the repeat perpetrators while they were in attendance at WSD.



## SECTION FIVE

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# CHILD PROTECTIVE SERVICES AND WSD

During the period under review, Child Protective Services (CPS) investigated 24 reports of alleged child abuse and neglect at the Washington School for the Deaf (WSD).<sup>1</sup> Of these, 13 were reports of student-on-student sexual misconduct that also contained allegations of inadequate supervision by the school.<sup>2</sup> In the course of these 13 investigations, CPS reviewed the actions of WSD staff together with the adequacy of the school's supervision-related policies and resources. Despite CPS's involvement, however, student safety at WSD continued to be an ongoing concern. For this reason, CPS's involvement at WSD is a focus of this report.<sup>3</sup>

## CPS Concerns

In September and October 1999, CPS sent six investigation reports to the WSD Superintendent's Office. These reports addressed sexual incidents involving repeat perpetrators that had occurred at WSD during the previous school year.<sup>3</sup> The reports set forth CPS's conclusions about whether the supervision at the time of the incidents provided by individual staff or WSD (as an agency) met the legal definition of child neglect.<sup>4</sup> In five reports, CPS concluded that the supervision provided by WSD did not meet this definition.<sup>5</sup> In one report, CPS could not make a determination of whether the supervision by WSD as an agency constituted child neglect.

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<sup>1</sup> There does not appear to be a statutory or other legal basis for CPS investigations at WSD. State law authorizes CPS to investigate parents and caretakers (RCW 74.13.031) and facilities that are licensed or certified by the State (RCW 74.15.030(4)). (See also WAC 388.15.130.) However, WSD is a state-operated facility, and therefore is not licensed or certified by the State. Before it became independent in 1985, WSD operated under the administration of DSHS. At that time, DSHS administrative policy authorized CPS (and Adult Protective Services) to conduct investigations of DSHS-operated facilities, including WSD. Even though WSD is no longer part of DSHS, CPS has continued to conduct investigations at the school. Prior to 1997, the investigations were conducted by the CPS unit of the DSHS Division of Children and Family Services (DCFS). Starting in 1997, the investigations were conducted by the CPS section of the DSHS Division of Licensed Resources (DLR).

<sup>2</sup> The remaining reports investigated by CPS involved staff-on-student abuse (7 reports), and student-on-student physical aggression that also contained allegations of inadequate supervision by the school (4 reports).

<sup>3</sup> With regard to the involvement of law enforcement at WSD, OFCO found one major concern. This related to the lack of certified interpreters that were available to assist responding police officers. The police cannot operate effectively if they are unable to interview witnesses immediately after an event. WSD is attempting to address this situation by becoming a "priority" for a local interpreting service. Because WSD is working to address this concern, it is not a focus of this report. However, it is imperative that the interpreter issue be remedied.

<sup>4</sup> Some of the incidents had occurred over one year earlier. The failure of CPS to complete these investigations and notify WSD of its findings in a timely manner is of concern, as it left students at continued risk of harm. According to DLR administrators and CPS investigators, the extensive delay was due to lack of staff resources and repeated revisions of the reports by supervisors. The timeliness of CPS investigations and reports to WSD has since improved.

<sup>5</sup> State law defines neglect as an "act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare and safety." RCW 26.44.020(15).

<sup>6</sup> However, one report overturned an earlier finding that WSD's supervision did constitute child neglect

Although they concluded that WSD's supervision did not meet the legal standard of neglect, the CPS reports repeatedly identified concerns regarding the number of supervisory staff and the lack of clear supervision standards and procedures:

- **Report One:** "There appears to be a severe budget constraint that limits the number of staff that can be hired to supervise adequately...[WSD] management has stated policies setting high standards [for supervision], but the policies are not written so there are no concrete guidelines for staff to follow...[WSD] management ... shows gaps in skills or knowledge of treatment of allegedly sexually aggressive youth."
- **Report Two:** "[There is a] lack of policies [at WSD] regarding staff/student ratios and supervision plans for students."
- **Report Three:** "It does not appear that the school has the classroom space, equipment needed or the staff to deal with such a student with such high and specialized needs."
- **Report Four:** "[T]here is not a policy at WSD that sets a student/staff ratio...[T]here are a variety of students who reside at and attend [WSD]. Some of the residents are children with behavioral problems. There are clear guidelines that state the school must provide an education to the population for which the school was established. However, when populations are mixed and children with behavioral problems are placed in a residential setting with the general population, problems occur."
- **Report Five:** "WSD was lacking policies and procedures for dorm routines or supervision standards at the time of the incident."

## WSD Response

The WSD superintendent told OFCO he was not aware of any concerns by CPS. He told OFCO that he read the CPS investigation reports to determine "what happened," and whether the findings indicated potential liability on the part of the school. He said he scanned the other information and then forwarded the reports to his top administrators. The superintendent told OFCO he doesn't recall seeing any of the supervision-related concerns documented by CPS investigators.

DLR administrators and CPS investigators told OFCO they met with WSD administrators, including the superintendent, on several occasions during the 1998-99 and 1999-2000 school years to discuss their concerns about supervision at WSD. However, they also indicated that they were unable to provide WSD administrators with much assistance in identifying appropriate supervision standards or procedures because the nature of the school's residential program differs significantly from that of the children's residential programs under DLR oversight. The WSD superintendent told OFCO that he doesn't recall meeting with DLR or CPS staff to discuss supervision or safety issues at WSD.

In August 2000, in its Fiscal Year 2001-03 operating budget proposal to Governor Locke, WSD requested funding for two additional staff. One of these was for an outreach position; the other was for a "safety resource officer," from the Vancouver Police Department, to "provide a safer environment for students on campus." When asked why he hadn't requested funding for additional supervisory staff, the WSD superintendent told OFCO that he had been discouraged from requesting additional staff by the state budget office.

The inadequate number of supervisory staff and the lack of clear supervision standards at WSD again became a concern for CPS in the 2000-01 school year.

### **Crystal and Ryan**

In February 2001, Crystal and Ryan reported that they were “pressured” by a group of mostly older male students to perform sexual acts. (This incident was described earlier.) The incident, which took place over the course of about one hour, occurred in the cottage’s mudroom, which is located outside the line of sight of the counselor’s office.

CPS’s investigation included interviews with cottage staff. When asked if there was a supervision policy for staffing residents, the cottage counselor said, “They keep screaming 6:1 and 7:1, but [the other counselor] does recreation and there’s no way we can have those ratios. There’s no policy that I know of.” She added, “That night [of the incident] I had 19.” The other counselor had left the cottage to attend a meeting with his supervisor. According to the residential program supervisor, “It’s normal to have only one staff in the building to supervise.”

CPS determined that the cottage counselor was not negligent in her supervision of the residents. However, CPS found, “At the time of the incident, WSD had no policy pertaining to the supervision of children within the residential setting that may have prevented such an occurrence.”

### **Patty**

In March 2001, Patty reported “sexual touching” by Tim on the bus. (This incident was described earlier.) CPS determined that WSD staff was not negligent in their supervision. However, CPS also found, “[Tim] is a student at WSD who requires close supervision. Apparently he has been in detention for his behaviors, but he continues to offend against female students. He was a child identified on a list of WSD students as needing “Extra Supervision.” However, there does not appear to be any specific policy that dictates the amount of contact an “extra supervision” child can have with other students, or how much visual or physical contact with the at-risk child that is required of staff. Transportation will work on a transportation supervision policy over the summer.”

## **Role of CPS and DLR Licensing**

In none of its investigations did CPS determine that the supervision provided by WSD staff or by WSD as an agency constituted child neglect. However, even if CPS had made such a determination, DLR does not have authority to take action. Because its residential program is state operated, WSD is not subject to state licensing standards or procedures that are applicable to privately operated children’s residential facilities.<sup>7</sup> Therefore, even if CPS had made findings of child neglect, DLR’s Licensing section would not have been able to compel WSD to address the deficiencies that led to the negligent supervision.

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<sup>7</sup> Similarly, institutions and residential facilities serving children that are operated by the Department of Corrections and by the DSHS Juvenile Rehabilitation Administration and Health and Rehabilitative Services Administration are not subject to state licensing or certification requirements. Nor are these requirements applicable to the Washington School for the Blind, which has a residential program for students.

In addition, because WSD is state operated, DLR's Licensing section did not have authority to follow up on the ongoing supervision concerns that were identified in CPS's investigation reports. In cases involving licensed facilities, DLR's Licensing section is authorized to follow up on potential licensing violations identified in CPS investigations even if CPS did not find that the facility's conduct constituted child abuse or neglect.

Follow up by DLR's Licensing section includes its own investigation to determine whether licensing violations occurred, the implementation of a "corrective action" plan to address identified deficiencies, and ongoing monitoring to ensure the facility's follow through with the corrective action plan. DLR may revoke the licenses of facilities that refuse or fail to comply with the corrective action plan, or that continually violate minimum licensing standards. In this case, even though CPS identified concerns about inadequate supervision standards and number of supervisory staff, DLR's Licensing section could not compel WSD to address these deficiencies.

## Findings and Conclusions

CPS's involvement at WSD did not result in the protection of students. Although CPS investigated 13 incidents of student-on-student sexual misconduct and identified deficiencies in the supervision provided by the school, it was unable to facilitate necessary safety improvements. Consequently, the safety of WSD students remained at risk, and additional students became victims.

CPS's inability to facilitate safety improvements at WSD was partially due to the fact that none of its investigations resulted in a determination that the supervision provided by WSD constituted child neglect. Without the potential liability that a finding of neglect would bring, CPS appeared unable to gain the attention of the WSD superintendent, notwithstanding its concerns about the adequacy of the school's supervision. CPS's determination that WSD's supervision did not constitute neglect appeared to be problematic in some cases.<sup>8</sup> However, even if CPS had made a finding of neglect, DLR's Licensing section would not have been able to compel WSD to address the deficiencies that led to the negligent supervision because WSD is not a licensed facility. In addition, because WSD is state operated, DLR Licensing did not have authority to follow up on CPS's supervision concerns or to compel WSD to address them. Thus, unless school administrators agree to address the safety deficiencies or concerns brought to its attention, CPS is not able to protect WSD students.

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<sup>8</sup> Specifically, we found this determination to be clearly unreasonable in three cases. In these cases, it appeared that the applicable standard was met: the incident was foreseeable and preventable. See DLR *Child Abuse and Neglect Section Practice Guide – Investigating Abuse and Neglect in State-Regulated Care* (Sec. XI(I)). In the first case, in its investigation of an incident involving Zak (see p. 20), CPS found that the WSD administrator who was aware of Zak's status as a registered sex offender did not meet the standard for child neglect for failing to share this information with bus staff because "she was under no legal obligation" to do so. This finding is problematic because, although the administrator was not required by law to share information, she had the discretion to do so, and the safety risk posed by this student if not supervised adequately was clearly foreseeable and preventable. In the second case, in its investigation of an incident involving Frank (see p. 20), CPS determined that WSD's decision not to assign Frank a one-on-one supervisor for the dorm and not to forward information to dorm staff about Frank's previous alleged sexual was not negligent "because the [IEP team] ... felt [Frank] presented a risk to girls at the school, not with peer males in the dorm. They had no information that [Frank] would act out sexually with other males." (This finding overruled an earlier determination by CPS that WSD did meet the neglect standard for failing to provide Frank with more extensive one-on-one supervision.) Because Frank's IEP team did, in fact, have information indicating that he posed a risk to male students, the incident was foreseeable and preventable. CPS's final determination is therefore unreasonable. In the third case, in its investigation of an incident involving Crystal and Ryan (see p. 29), CPS did not make any finding regarding WSD as an agency, even though it found, "At the time of the incident, WSD had no policy pertaining to the supervision of children within the residential setting that may have prevented such an occurrence." The failure to make a determination on WSD as an agency is problematic in light of the fact that CPS had previously brought this deficiency to the attention of WSD administrators in a series of reports in September 1999, following several sex-related incidents. Thus, this most recent incident was foreseeable and preventable.

## SECTION SIX

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# STUDENT INTERVIEWS

In the course of this review, OFCO met with 13 students and asked them to share their thoughts about the Washington School for the Deaf (WSD).<sup>1</sup> The clearest theme to emerge from our interviews with WSD students was their view of the school as a vital educational resource:

- “I like the good education [at WSD]. When I was in public school, I had an awful time with interpreters and being able to know what was going on. Being with deaf friends, the education is better here for me. I am with other kids like me. I can understand them. When I was at public school, other kids made fun of me. The sports are good here. In public school, when I played football, the interpreter had to come into the huddle to translate what the other kids were saying.” - Age 16
- “It’s better here. I don’t have to be with all hearing students. It was hard to communicate with other kids at public school. It was boring.” - Age 12
- “I like that I can talk to my friends here. The conversations are great. At public school, you can’t hear and it feels really strange.” - Age 8
- “Sometimes, if you go to public school, it’s easier to be left out. There’s more peer discussion here. In public school, one interpreter had to catch every discussion in a classroom. There’s more intelligent and understandable discussion here.” - Age 14
- “I came here so I could have friends and socialize. When I went to public school I had no friends. I like that I can have a [dorm] counselor to communicate with and talk to. I like the teachers because they are deaf. It makes me feel better. I have communication here. Public school was hard for me.” - Age 17
- “When I first came here, I made lots of friends because of the good communication. Education was tough in public school. Here it is better. Also, there’s sports – volleyball, basketball. - Age 14
- “I don’t think public schools support deaf students very well. I am very much in favor of schools for deaf students.” - Age 16
- “I like the teachers and big people who use sign language.” - Age 6

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<sup>1</sup> OFCO randomly selected 15 WSD students, ages six to 18, to request interviews. We then met with 13 students who agreed to be interviewed. Of this group, 11 students were enrolled in the residential program. See Appendix B for a description of the interview questions.

Another theme pertained to safety. Without being asked directly, all of the students we interviewed mentioned that they felt safe at WSD. In fact, some students said that recent safety measures instituted by the school have gone too far. These students said they were concerned that the new measures are so restrictive that they threaten to take away their opportunity for a “normal” school experience.

- “I feel safe here at WSD. WSD is a safe and good school for kids. They have made improvements. Okay, they had rapes and things reported before. Now they have put a big fence around the school, and now I think the kids feel safe here.” - Age 14
- “You are safe here. No one will hit you, nothing like that. In the paper they write stories. I don’t know what they said, but I want to write: It’s safe here, there are no problems here. ” - Age 12
- “I think WSD is too safe. Sometimes I feel trapped here. You feel like everyone is watching you. Teachers are always watching. There are too many things that they know about because they are always watching. Back off! I don’t really want teachers to be so strict. Students, deaf people hug. Hugs make you feel better. We can’t do that anymore. Teachers are always watching to make reports it seems. Because of lawsuits we have all these new rules. I think it’s not such a happy place now. . . [Also,] I miss the level system. This year feels like no freedom. I feel really stuck. I think people need to use their common sense. Juniors and seniors should be trusted. It’s part of learning. Allow people to become more responsible and more mature.” - Age 17
- “There are more rules this year. Sometimes it feels different this year. Last year we had a level system. They changed it this year. Now you always have to be with someone. There was a snack room in the dorm. Now that’s closed. What’s up with that? You need three or more kids now to go off school grounds. [Now there are] time limits for study hour. And you have to stay for the full hour. You used to be able to spend the extra time having fun. There have been lots of changes that I am not real happy about.” - Age 14
- “We are not allowed to make mistakes here, so how on earth can we not be safe? We can’t wrestle, can’t go off campus with just one friend, have to follow a strict schedule. Sometimes we want time alone. The staff need to become more willing to let us do things. I am a senior. I know what I’m doing, I know what’s wrong. At home, I can negotiate. They don’t keep records on me at home. They don’t have to contact 10 people to see if I can go someplace. Sometimes I would like to go off and do something. I have freedom at home. People here think that they can make it like heaven. We now have a fence and video cameras everywhere. We don’t need all that. The kids that raped people aren’t here anymore. Kids are starting not to come here anymore because they don’t like the video cameras and fences. There’s more and more strictness. Do they want the school to continue or close? It feels like too much. It’s our home. The outsiders – the adults – don’t live here 24/7. It affects us more than it affects them.” - Age 17

## SECTION SEVEN

# RECOMMENDATIONS

This section sets forth four recommendations to improve student safety at the Washington School for the Deaf (WSD). They are based upon the findings and conclusions set forth in Sections 2 through 5 of this report. They also take into consideration the views and concerns expressed by WSD students, as set forth in Section 6. The recommendations are intended to complement the safety-improvement provisions set forth in Governor Locke's directive, Substitute Senate Bill 6361, and the report by the Blue Ribbon Committee.<sup>1</sup> They are also intended to supplement the school's ongoing efforts to implement these provisions.<sup>2</sup>

## 1. Incident Documentation and Record Keeping

WSD should, in consultation with knowledgeable experts, design and implement an integrated incident documentation system that provides administrators with the information they need to continuously evaluate and improve student safety at WSD. The system should have the following components:

- A format that ensures the recording of critical incident information, such as student age, incident time and location, and a detailed description of the misconduct.
- Capacity to track incidents and identify patterns (by perpetrator, victim, incident type, time, location, etc.) across the academic, after-school and residential programs. As Section 3 indicates, many reports of serious sexual misconduct occurred in the dorms and cottages.
- Capacity to record and track reports made to CPS and the police, and the capacity to identify reporting patterns.
- Capacity to document the response by the school, CPS and/or the police, and the capacity to identify response patterns.

In addition, WSD should develop standardized documentation procedures. Further, the school should develop standard procedures for “managing” incident reports to ensure timely and appropriate follow up and for responding to identified patterns (e.g., obtain an external evaluation when a pattern of problem behavior by a student is identified).

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<sup>1</sup> See Section 1.

<sup>2</sup> As described in Section 1, WSD is in the process of implementing a large number of safety-improvement provisions. Because many of the provisions have only recently been implemented, it is too early to determine whether or to what extent they have improved student safety at WSD.

Implementation of an integrated system would allow WSD to standardize and streamline the array of incident documentation and record-keeping procedures that recently have been established by the school.<sup>3</sup> In addition, it would greatly enhance the ability of school administrators to monitor and assure student safety at WSD. Because school administrators have a broad, school-wide perspective that IEP teams do not, their oversight role is critical to ensure student safety.

## 2. Behaviorally Disturbed Students

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WSD should, in consultation with persons with expertise in behavioral disorders and sexual aggression, develop a system for managing and serving severely behaviorally disturbed students. The system should have the following components:

***Clear Disciplinary Procedures:*** The system should have clear disciplinary procedures that include objective criteria establishing when a behaviorally disturbed student must be removed from the general student population. Specifically, the school, in consultation with persons with the appropriate expertise, should develop clear criteria for assessing physical or sexual aggressiveness and sexual acting out. The school should keep scrupulous records of every incident for each student. The system should include clear consequences for each level of seriousness and/or chronicity. Finally, the system should include a cut-off point at which the school must seek to remove the student from the general student population, either by expulsion or placement in a specialized program, as described below.<sup>4</sup>

***School for Severely Behaviorally Disturbed (SBD) Students:*** WSD should establish a school within WSD for SBD students so they can study, recreate and reside apart from the other students. This school should provide intensive supervision and specialized services to meet the needs of SBD students. Students could either be accepted directly into the SBD school (based upon an assessment/prior history), or be placed there after meeting specified criteria for serious and/or chronic behavior.<sup>5</sup> Conversely, the student could “earn” his or her way back into the general student population by consistently demonstrating appropriate behavior.

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<sup>3</sup> For example, the Safe and Civil Schools incident documentation system, which WSD is in the process of implementing, excludes incidents that occur in the residential program. (This is because the system was designed for non-residential schools.) Consequently, these incidents must be documented and tracked separately. Moreover, the mix of new documentation procedures and forms recently developed by the school are unnecessarily complex, and do not address incident management or incident response.

<sup>4</sup> Having recently eliminated its Level System, WSD currently does not have a comprehensive disciplinary or behavior management system. However, the school has recently developed a safety-risk screening matrix. The matrix is being used to screen students for admission and to establish when WSD must initiate special education expulsion or change of placement procedures. However, the screening matrix is not intended to be a comprehensive disciplinary (or behavioral management) system. In addition, the matrix was not developed with the assistance of persons with expertise in behavioral disorders and sexual aggression, nor have the risk factors been validated through research or practice. We question whether some of the matrix factors are even appropriate or relevant for the purposes of admission or expulsion. For example, the matrix identifies “evidence of teaching personal safety skills, but continues to be victimized” as a Level 2 risk factor. A “long-standing foster placement at one home” is also identified as a Level 2 risk factor. It is unclear what relevance these factors have to the safety risk presented by a student “to self or others.” We are greatly concerned that a student’s history of victimization and/or long-standing foster placement are being used to determine whether WSD will admit or seek to expel the student.

<sup>5</sup> WSD’s new admission policy could be modified to include an assessment to determine whether a student could be safely admitted into the SBD school. Currently, the new policy allows WSD to deny admission to residential students whose behaviors cannot be mitigated by an individualized safety plan that can be established within existing school resources.

The SBD school should have the appropriate expertise and resources necessary to recognize and meet the needs of SBD students, including sexually aggressive students.<sup>6</sup> Students whose treatment needs exceed the expertise and level of service offered in the SBD school should be served elsewhere. In light of the limited availability of treatment services for children generally in Washington state, consideration should be given to placing these students in an out-of-state school program that specializes in serving deaf students with intensive treatment needs.<sup>7</sup>

Implementation of this system would address the current misalignment between mission and resources at WSD. Specifically, it would ensure that severely behaviorally disturbed students with the most dangerous behavior and/or serious treatment needs are served elsewhere. In addition, it would enable WSD to meet the needs of many other severely behaviorally disturbed students, including sexually aggressive students, while also protecting the safety of other students. Moreover, by removing severely behaviorally disturbed students from the general student population, this system would provide WSD with greater flexibility in providing the rest of the students with a more normal educational experience and environment. Finally, as there are no SBD schools or programs currently in place for deaf students in the state, this system would create parity with hearing students for whom SBD schools and programs exist throughout the state.

### **3. Expert Consultation on Sexual Aggression and Victimization**

WSD should obtain expert consultation on sexual aggression and victimization issues. Specifically, the school should obtain consultation to:

- Assist IEP teams in identifying sexually aggressive youth in a timely manner. As the histories in Appedix A illustrate, the IEP teams did not appear to recognize early on the significance of the sexually acting-out behavior by the elementary-grade students who became repeat perpetrators.
- Assist administrators in refining the current training curriculum to improve staff awareness and understanding of sexual aggression and victimization issues. Consideration should be given to having individuals with appropriate expertise provide the training directly.
- Assist administrators in developing a protocol for assessing and addressing the needs of student victims.

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<sup>6</sup> The American School for the Deaf has a well-regarded SBD program (the Paces program) that could serve as a resource in identifying the core components of such a program at WSD.

<sup>7</sup> For example, the Pressley Ridge Integrated Deaf Education (PRIDE) Program at the Western Pennsylvania School for the Deaf has a treatment facility serving deaf and hard-of-hearing children with severe emotional and behavioral problems. Similarly, the Walden School at the Learning Center for Deaf Children in Framingham, Massachusetts provides comprehensive treatment and educational services for deaf children with severe social and emotional difficulties.

## 4. CPS and DLR Licensing

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The Governor the Legislature should formalize and strengthen the relationship between CPS and WSD. Specifically, CPS should be formally authorized to investigate incidents at WSD involving alleged child abuse or neglect. In addition, DLR Licensing should be given authority to follow up on safety-related deficiencies and concerns at WSD and to take action if school administrators do not act to address them. To ensure its permanence, this authority should be established by statute or executive order. The parameters of DLR's authority to act could also be defined in statute or executive order, or they could be defined pursuant to a written protocol agreement between WSD and DLR. Finally, DLR's annual reviews of the operations and staffing of the residential program, as set forth in Governor Locke's safety directive, should be embodied in statute or an executive order.<sup>8</sup>

The external oversight provided by CPS and DLR is absolutely vital. As our interviews with administrators, staff and students made clear: WSD wants to keep deaf and hard-of-hearing students at the school, and these students want to stay there. In addition, staff and students are fearful that public concern over student safety issues may be placing the school's existence in jeopardy. This situation is potentially conducive to the minimization or suppression of student safety concerns inside WSD. Thus, it is imperative that CPS and DLR are able to perform their external oversight function effectively. Clarifying and strengthening their role at WSD will enable CPS and DLR to do so, and thereby better protect student safety.

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<sup>8</sup> Pursuant to the Governor's directive, the DLR reviews are to follow the implementation of a staffing model that "ensures adequate staff coverage and student supervision for the school's residential, elective and transportation programs." The staffing model is currently under development by WSD and DLR.

# APPENDIX A

## Repeat Perpetrator Behavior Histories

The following are brief histories of the 11 repeat perpetrators during their enrollment at WSD. They include reported incidents from the past 15 years. We have included the histories in this report because they provide an important perspective on the repeat perpetrators and the seriousness and chronicity of their behaviors. Moreover, they provide a context for the case examples in Sections 4 and 5. The information for the histories has been obtained from WSD, Child Protective Services (CPS) and law enforcement records. The students' names have been changed to protect their privacy. Readers are advised that the contents of the histories is graphic and may be disturbing.

**Bill** entered WSD at age five. Reports start appearing in his file about physical assaults on other students at age 10. At age 11, Bill injured the face of a student by slamming his head down on a sink faucet. A week later, he punched another boy, giving him a black eye. When he was 12 years old, reports began that Bill was sexually touching and harassing both male and female students. This behavior continued for the next two years, despite staff interventions and suspensions. His student record indicates that he was reported for 41 incidents of physical assault, sexual assault and sexual harassment in these two years. Bill left WSD at age 15.

**Cliff** entered WSD at 11 years old. Notes in his file indicate that he had demonstrated sexually inappropriate behaviors at his previous school. During his first months at WSD, there were numerous complaints about him grabbing the genitals and breasts of other students: an 8-year-old girl, a 10-year old girl, a 10-year-old boy, and developmentally delayed 13-year-old girl. Later that year, Cliff was suspended for violence toward staff members. The following year, it was reported that Cliff was talking a lot about fantasies of sexually molesting babies. That same year, Cliff tried to commit suicide by putting a plastic bag over his head. After this incident, he spent some time at a psychiatric inpatient unit. When he returned to WSD the following year, he told staff that he was having difficulty controlling obsessive thoughts of stabbing and shooting people and watching them bleed. He began talking incessantly to younger students about graphic sex and forcible rape and evil ghosts. As the school year progressed, he became increasingly delusional, talking to imaginary persons, screaming, and describing continuing sexual fantasies about molesting babies. He reported that ghosts were telling him to have sex with people and hurt them; he said the ghosts were also telling him to kill himself with a plastic bag so that he could become a ghost himself. Throughout the school year, there were reports of Cliff molesting, threatening and stalking other students. At the end of the school year, Cliff had another psychiatric hospitalization. After that, his parents agreed to withdraw him from WSD.

**Danny** entered WSD at age 10. Reports started immediately that Danny was engaging in inappropriate and unwanted sexual touching of other students, both male and female. Danny's file reflects 11 reports of him sexually grabbing and groping other students in his first academic year. At the end of that year, just before Danny's eleventh birthday, he was found having anal intercourse with another ten-year-old student. When he was asked where he had learned these behaviors, Danny indicated that his older brother and three of the brother's friends had all had anal intercourse with him together (this took place at Danny's home, not at the school). WSD changed Danny's placement following this incident.

**Darren** entered WSD at age 10 and immediately began acting out sexually, grabbing boys on the buttocks or genitals. By the time he was 12, female students were complaining that he was sexually harassing them, attempting to grope a girl's genital area, engaging in offensively graphic sexual talk, and soliciting sexual favors from girls. Darren left WSD at age 15.

**Evan** entered WSD at age eight. By the time he was nine, his file contained many complaints from male students of his touching them sexually and attempting to perform anal intercourse on them. At age 10, Evan was reported to have coerced a special needs male student to engage in sexual activity and to have asked a female student to engage in sexual intercourse. At age 11, he was reported for repeated incidents of grabbing and touching other students in a sexual manner. By age 12, Evan had become physically assaultive as well as sexually aggressive: his file reflects that he hit, punched, kneed, and bit students and staff members and that he engaged in constant sexual harassment. At age 15, he threatened to rape a female student, and pinched her breasts repeatedly, leaving bruises. A month later, he physically pulled a female student into a dorm laundry room and hugged and kissed her. A year later, he reportedly attempted to forcibly kiss and hug a female student when she was opening the restroom door. Evan left WSD at age 17.

**Frank** entered WSD at age 13. From the time he arrived, students complained that he sexually touched, grabbed and harassed them. His file indicates that he “coaxed a boy to perform intercourse” behind a teacher when the student said he didn’t want to. Shortly afterward, Frank raped a female student and was suspended from school. (He was later convicted of third degree rape). When he returned, he was assigned a one-on-one aide. Nonetheless, his file indicates that there were many continuing incidents of “premeditated, opportunistic, selective grooming of peers and younger children, and sexual, verbal and physical acting out towards male and female students.” Later that year, Frank engaged in anal intercourse with a 12-year-old special needs student (The special needs student said he told Frank, no; Frank said the contact was consensual; he was not charged.) Frank then left WSD later that month. His student record reflects that he generated 30 behavior reports for sexual touching or hitting other students in the less than one academic year that he was at the school.

**Greg** entered WSD when he was 10 years old. By the time he was 13, there were several complaints about his sexual acting-out: sexual activity with a male student and sexual harassment of female students (asking them to perform sex acts). On an overnight to a friend’s house, Greg was accused of going into the friend’s sister’s room and sexually abusing her while she slept. When he was 14, Greg was allegedly the victim of an anal rape by another repeat perpetrator. When Greg was 17, he was reported to have forcibly raped a younger female student, leaving scratches and bruises on her body. (Greg denies that any sexual contact occurred; he was not charged.) Greg did not return to WSD after this incident. Records indicate that, in a seven-year period, Greg had 17 behavior reports involving sexually inappropriate touching, intercourse, and harassment.

**Larry** entered WSD at age 12. During his first academic year at the school, there were numerous complaints about his sexual acting-out: exposing himself to a female student; following another female student into a restroom and offering her money for sex; asking a male student to expose his rectum; having anal intercourse with a male student; and being found leaving the bed of another male student. By the next academic year, Larry’s acting out had escalated further and there were several reports of his luring male students off campus to have sex. He also extorted “protection money” from a student in exchange for not hurting the student. The following year, when Larry was 15 years old, he allegedly committed forcible anal and oral rape on a 14-year-old student in a dorm bathroom. Later that winter, a female student reported that Larry forced her to disrobe and fondled her body and exposed himself to her (this happened at a friend’s apartment during the weekend, not at school). She said that he had been hitting, grabbing and molesting her for two years and that she was too frightened of him to report him. WSD terminated Larry’s enrollment when he was 19.

**Mike** entered WSD when he was 13 years old. His file indicates that he was disciplined numerous times over the years for sexual incidents: pulling down a female student’s pants, touching a female student’s breasts, touching a female student’s crotch with his leg (under the pretense of playing basketball), and harassing students by offering them money for sex and talking to them about sex acts he wanted them to perform. Mike stayed at the school until he was 19 years old.

**Tim** entered WSD as a residential student when he was 12 years old. During his first year, Tim was the victim of an alleged anal rape by a repeat perpetrator. He had also been listed as one of the students who had been repeatedly frightened by Cliff’s psychotic ravings about ghosts and rape and killing. During the two academic years following his reported rape, Tim was reported five times for sexual aggression: touching a female student’s breast while she was walking to the bus, touching a female student’s genital area while she was on the bus, grabbing another female student’s crotch as she was getting off the bus, and touching the breasts and genital area of a female student in the dorm laundry room.

**Zak** entered WSD when he was six years old. At age nine, he reportedly pushed a female student to the ground, held her down, pulled down her pants, and touched her genitals. His file indicates that he had numerous other reports of hitting, threatening and hurting children, and he was referred to an inpatient psychiatric unit for “paranoid and aggressive” behavior. Zak returned to WSD the following year. Immediately upon his return to school, reports began of Zak exposing himself to other students. There were also several reports of Zak being sexually victimized, including a report, when he was 12, that his WSD roommate had inserted objects into Zak’s rectum, causing rectal bleeding. At age 16, Zak’s school record reports that a 14-year-old female student complained of unwanted sexual touching by him. The following year, Zak was committed to a juvenile correctional facility for sexually molesting a younger girl by binding her with duct tape and inserting objects into her vagina. He returned to WSD later that year and was immediately reported for touching the tip of a javelin to the anus of a female student (outside her clothing). The following month, he was reported for exposing himself to a female student. A year and a half later, he digitally penetrated a female student, who told school authorities that she had felt too frightened and intimidated to call out for help. Zak stayed at WSD until age 19. According to his student record, there are at least 200 behavioral reports on Zak during his 12-year career at WSD.

# APPENDIX B

## Questions for WSD Students

- 1.** How long have you been at WSD?
- 2.** What is it about the school that you like most?
- 3.** What has been your best experience at WSD?
- 4.** As you know, one of the reasons we're here is to talk about safety. If you were to give advice to new kids coming to the school about how to stay safe here, what would you tell them?
- 5.** If you had concerns or worries about your own safety, who would you tell? Why this person? What do you think would happen?
- 6.** If you had two wishes that would make the school a better place, what would they be?
- 7.** If you had two wishes that would make the dorms or cottages a better place, what would they be?
- 8.** Is there anything else you would like the Governor and other people reading our report to know about WSD?