

## APPENDIX C

### United States v. Nebraska, No. 8:08-CV-271 (RGK)

#### Criminal Staff Abuse of BSDC Residents

From May 1, 2011 to August 31, 2011, five BSDC workers seriously abused seven BSDC residents in one unit of one building (Kennedy 106) on the BSDC campus. The abuse was disturbing and unacceptable. Staff repeatedly put residents in a choke-hold to subdue them, causing some to lose consciousness. The abusers also routinely slapped, shoved, pinched, and ridiculed the residents. All of the victims were young men between the ages of 20-32. Neither the monitor nor State/BSDC leadership uncovered the abuse because no victim ever had to be hospitalized and because the perpetrators submitted incident reports with reasonable explanations so as not to arouse suspicion. Plus, there was a rigid code of silence among the workers because they were very afraid of the lead abuser.

Upon learning of the abuse, the State's DD director immediately called in the Nebraska state police to do an independent investigation. The State also immediately suspended, then fired or accepted the resignation of, all five staffers and fired or demoted four managers who failed to report the incidents in a timely manner. Eventually, the State suspended a total of 16 employees.

The State promptly made the events public and readily admitted to "wrong doing." The State then worked with the local county attorney to facilitate prosecution of the abusers. The State sent the BSDC facility director to the homes of the families of the victims to talk to them in person about what had happened. Immediately below is a short chronology of events:

- The State learned of the abuse on September 1, 2011. The State contacted the Nebraska State Patrol that day and they began an onsite investigation at BSDC the next day.
- On September 2, 2011, the day after the State learned of the abuse, the State moved the victims from the unit where the abuse occurred. The State promptly conducted full medical and psychiatric evaluations of all the victims and then trained the new staff on how to implement the behavior and safety plans for the men. The State called on a specialized behavioral services provider to add more than a dozen supplemental staff to better meet their needs.
- Shortly thereafter, the State closed the Kennedy unit where the abuse occurred, as well as a nearby unit in the building that the State feared might have been impacted by the abusive practices. The State closed the entire Kennedy building in the following weeks.
- Given that its existing process had not worked, the State created a new mechanism, consistent with earlier guidance from the monitor, where individuals who suspected or observed abuse could contact the switchboard anonymously to report with less fear of retaliation.

The United States and the monitor met telephonically with State officials throughout September to address this matter. On October 24, 2011, the United States met with State DD leadership face-to-face in Lincoln to get further details. On October 27, 2011, the United States then traveled to Beatrice to get a first-hand account of issues related to the abuse. The United States met with the BSDC facility director and then toured the BSDC campus, visiting with all of the victims but one (who had moved to a community home). The United States spoke to their current staff about the status of their health, safety, and welfare. The workers reported that the men had adjusted well to their new living situations.

All of this was most unexpected, as for the prior two years, State leadership had worked diligently and in good faith to reform bad past practices, especially with regard to rooting out abuse. Throughout, the State extended to both the United States and the monitor full cooperation at all times. In the end, we concluded that this was disturbing, repeated abuse carried out by a few bad actors enabled by staff workers who did not put a stop to it. We determined that this was an isolated circumstance – a troubling relic of the past – and not representative of systemic abuse across the campus.

On October 17, 2011, all five workers were indicted on criminal felony charges and one was also charged with a misdemeanor for theft. The lead abuser was Matthew Pangborn (30), an employee at BSDC for over a decade; he was indicted on six counts of abuse of a vulnerable adult – a class IIIA felony – and five counts of strangulation – a class IV felony. Cameron Barnes (21) had been an employee at BSDC for over two years. He was indicted on three counts of abuse and six counts of strangulation.

On July 12, 2012, a jury found Pangborn guilty on multiple criminal counts; he was sentenced that October to 15-23 years in prison. In July 2013, the Nebraska Supreme Court reversed the ruling, sending it back to the district court for re-trial. (The Supreme Court determined that the district court had abused its discretion by allowing the use of a demonstrative exhibit in jury deliberations without providing adequate limiting instructions.)

After conclusion of a new trial, in January 2014, a jury found Pangborn guilty of three counts of abusing a vulnerable adult (class IIIA felony) and two counts of strangulation (class IV felony); the county attorney dropped four additional charges as part of a plea agreement. On February 25, 2014, Pangborn was sentenced to prison for 112-180 months (roughly 9-15 years); he will be eligible for parole after having served four-and-a-half years. Pangborn was the only abuser to face a trial; the other four abusers pleaded to reduced charges and then testified against Pangborn. Barnes and another abuser received multiple-year prison sentences, and two other abusers were sentenced to several months in the county jail.