

IV: Findings & Recommendations

Though other private schools that uncovered sexual abuse by staff initiated, supported and funded independent investigations, Horace Mann declined to do so. In 2013, the Horace Mann Action Coalition (HMAC) asked Judge Leslie Crocker Snyder (ret.), founder of the Manhattan DA's Sex Crimes Prosecution Bureau, the first such bureau in the country, and co-author of New York State's Rape Shield Law, to conduct an investigation. "The investigation was circumscribed and inhibited due to a lack of cooperation and a lack of funds," noted Snyder. "We focused on setting forth more comprehensive facts than had been released previously and on forming a list of critical recommendations."

Her findings are presented here.

Findings

The subject of sexual abuse has received a great deal of attention lately, primarily focused on abuse on college campuses.¹ While much needs to be accomplished there, young children and young adults are being sexually abused in our elementary and secondary schools every day. It has been estimated that 4.5 million children—1 in 10 between kindergarten and grade 12—have been sexually abused by a teacher, coach or school employee.²

A survey of 21 private schools throughout the country has shown that a pervasive and disturbing pattern of sexual abuse exists involving children abused by teachers, coaches and other school employees.³ After sexual abuse was discovered at their institutions, some private schools, such as Poly Prep Country Day School in Brooklyn, New York and Yeshiva University High School for Boys in Manhattan, publicly apologized, admitted that abuse occurred, and hired top law firms and experts at significant cost to conduct independent investigations and to report and recommend changes. Thereafter, these institutions adopted the resulting recommendations, issuing extensive new guidelines to ensure that future students would be safeguarded.

Horace Mann, unfortunately, has chosen a different path. Rather than endeavoring to bring sunlight to a darkened corner of its past, Horace Mann has steadfastly refused to investigate on its own or to cooperate with our investigation. Its top leadership has declined to meet with me or anyone else involved in this investigation; it has refused to answer our written inquiries and entreaties; and it has forbidden us access to records that might answer some of our many questions about what happened at the school. As a result, we are left with the voices of the victims and their families – voices that are compelling, and verifiable, but that cannot, on their

¹ A video from our October 2014 symposium on sexual abuse at colleges and schools, "The Epidemic of Sexual Abuse in Our Schools and Universities: How these Institutions have Failed Students and What We Must Do to Protect Them," can be found at <https://vimeo.com/110393616>.

² Brian Palmer, "How Many Kids are Sexually Abused by Their Teachers?" Slate.com, February 8, 2012, http://www.slate.com/articles/news_and_politics/explainer/2012/02/is_sexual_abuse_in_schools_very_common_.htm, accessed February 21, 2015.

³ Horace Mann Action Coalition, "Independent Schools with Recent Reports of Sexual Abuse by Teachers," MakeSchoolSafe.net, April 7, 2014.

own, complete the picture. It is a frustrating outcome, as what the victims want most of all is the truth. Our hope is that this report will not be the last word on the subject, and that, someday, the school's leadership will allow us or someone equally independent to complete this important work.

From these victims' voices, however, we have learned a great deal. We have learned that upwards of 64 HM students were sexually abused by as many as 22 faculty and staff – a staggering figure that only hints at the scope of devastation that was wrought on young people in the school community. We have learned that Horace Mann's historic response to reports of sexual abuse in the 1970s, '80s and '90s was to ignore them, to bury them or to quash them, leaving victims and their families feeling even more abused. We know that, over the decades, the school reported none of these complaints to law enforcement contemporaneously with the events in question, and that documentation verifying the complaints, which several administrators claimed existed, is missing. Sadly, we know that, notwithstanding its mission to protect and nurture the young, Horace Mann offered no counseling or support for victims and no warning to parents, other students at risk, or other schools or institutions where abusers subsequently went to work. In many cases, the record contains no evidence that the school so much as confronted the abusers. And, adding injury to injury, in at least some cases Horace Mann officials suggested that victims' complaints would not be accepted without *other* proof or evidence: the children's word was not enough. During those long and terrible years, it would seem as if the school's primary interest was not in determining what had occurred, ameliorating its effects, and preventing it from happening again, but rather in protecting the abusers—teachers, coaches and administrators—and guarding Horace Mann's reputation, regardless of the harm inflicted. It is as if the school's mission of truth and the nurturing of the young had been turned on its head.

The story we tell in these pages – what we know from the testimony of the victims -- is harrowing and horrific. Imbedded in that horror is a desperate cry not to let the past be prologue – a cry for change in how this issue is prevented and addressed going forward. If the suffering inflicted on the victims is to have meaning at all, that call must be answered with specific changes, in protocol, procedure, and attitude at Horace Mann. My hope is that, by telling the truth, and identifying the change that must occur, we will help make Horace Mann a better, safer environment for the children who attend, as well as for children at other schools.

Leslie Crocker Snyder

Recommendations

We make the following basic recommendations for private schools⁴, which can be accomplished at minimal cost:

Training

It is critical that faculty, staff, volunteers and employees, including administrators, custodial staff and any third party contractors who have access to students, receive annual training. This training, to be updated every year, must include understanding the definition of sexual abuse and its various forms and how to recognize it. It must also cover the technology that students and faculty, coaches and staff use to communicate. Training should take the form of a presentation by one or more sexual abuse experts at a mandatory annual meeting, which must include a question and answer session. The training should also be supplemented with on-line training, if possible. It should set forth boundaries to be followed and deal with issues like bullying and sexual harassment, in addition to sexual abuse.

Sexual abuse education should also be mandatory for all students, tailored to their grade and level of understanding. While such education could start as early as first grade, it should certainly start by 4th, so children understand what type of behavior is and is not permissible and parents must receive training as well.

It is critical that the training and education include the concept of bystander intervention: if teachers, employees or students see signs of inappropriate behavior, they have a duty to intervene as early as possible.

A key component of training is making certain that the school's policies and guidelines are understood. For instance, the training must make clear that there is no such thing as consensual sexual contact between any employee of the school and any student. We also support that separate training concerning internet safety, cyberbullying and related issues be mandatory. This can be accomplished at minimal expense with resources from The National Institute for Missing and Exploited Children.

Reporting

Hand in hand with training, there is nothing more important than a requirement of reporting all suspected sexual abuse and related offenses (See NY Social Services Law sec. 411-415).

Reporting suspected instances of abuse must be done at the earliest moment possible. Reporting procedures must be simple and clear both in training and in the school's published guidelines.

Victims and witnesses must trust the process and not fear being targeted, embarrassed or abused themselves by school officials. To accomplish this goal, there must be two reporting methods: one internal to the school involving reporting only to school leaders like department chairs and the headmaster, and—alternately—one external, to an independent monitor or panel

⁴ Many applied to public schools as well

outside the school consisting of an expert in the field, a law firm and/or well-credentialed persons with no fealty to the school.

All credible instances must be reported to law enforcement since most forms of sexual abuse are criminal. The school and law enforcement must work together in these cases; cooperation is key.

Reporters, victims and witnesses must be protected: their names should be kept confidential. Reporters must be immunized from civil and criminal liability and all consequences of reporting as long as their report is based on ‘reasonable cause to believe’ the behavior occurred. The goal must be to detect early warning signs of on-going sexual abuse while ameliorating fear of reprisal.

Hiring

If a school can avoid hiring an abusive teacher or employee, it will reduce the risk that its own students will be abused. This seems obvious but schools often discharge an abusive teacher or coach with a neutral letter of recommendation; that person is then unwittingly hired by another school.

Obviously, state and federal criminal background checks and fingerprint searches should be performed and can be done at relatively little cost. Currently, volunteers, student teachers, school bus drivers and private school employees are not required to be fingerprinted by law, and this is a serious loophole. Every private school should require this as a condition of employment. In addition, sexual offender registries and databases should be searched to determine if new hires have a history of sex-related crimes.

References should be required from every past employer, internship and volunteer experience. Schools should place phone calls to multiple persons at all previous schools and be sure to ask why the candidate left his or her previous position. There is currently a fear of legal consequences by prior or current employers if they say much beyond confirming employment dates—so they don’t. Similarly, letters of recommendation are typically uninformative and unhelpful for evaluating risk of sexual abuse. This makes extensive probing and screening of each candidate critical.

During the interview process, candidates’ attitudes on child sexual abuse must be probed, through both the face-to-face interview and an extensive written questionnaire. Candidates must be informed of the school’s zero tolerance sexual abuse policy and be told that any incomplete or false information they provide will result in immediate termination. This statement should be included in any written contract. Candidates must also provide proof of a current teacher’s license (if applicable to the position).

Anonymous Hotline

A hotline should be established to receive reports of sexual abuse anonymously with appropriate reporting to law enforcement. The hotline should be screened by high level school personnel and the outside monitor(s).

Psychological Counseling

Every private school should have a psychologist available to consult with victims. In addition, the school must make counseling available to victims and witnesses. Concern for the victims of sexual abuse must be one of the school's first priorities.

Transparency

The school's policies, procedures, guidelines and resources with regard to sexual abuse should be completely transparent to its prospective students, families, current students, alumni, teachers, staff, independent contractors and volunteers. The policies should also be incorporated into the school's handbook and made available to all of these constituencies; they should also be online.

Annual reports should be mandatory, and must include all information relating to any sexual abuse complaints and their resolution.

Reforms

There are many other issues to address and many reforms that should be made to alleviate child sexual abuse. We recommend the following few for immediate action by the Governor and the New York State Legislature.

1. Mandatory Reporting

Make reporting of sexual abuse by every employee, volunteer, etc. mandatory in every school, private as well as public.

Currently, New York State's Social Service Law requires that school officials in public and private schools report suspected child sexual abuse. However, the law refers to such abuse only by a parent, guardian or "other person legally responsible" for the child and does not include abuse by any school employees.

New York State's Education Law details schools' reporting responsibilities after a child abuse complaint is made. However, this law applies only to public schools.

These laws must be amended to make all reporting of child sexual abuse by anyone in private or public schools mandatory. Reporters must be immune from civil and criminal liability if acting in good faith.

2. Independent School Investigator

Create a statewide position of an independent schools investigator, analogous to the Special Commissioner of Investigations in the New York City public schools, which has broad authority to investigate sexual misconduct (among other things) within the New York City School District. The position must be independent of the schools.

Cases of failure to report must be prosecuted vigorously. The office of the Special Commissioner of Investigations in the New York City public schools has been very successful in prosecuting these cases, as well as the underlying abuse, and its goal should be that of every school: remove the perpetrator (after all due process) from being a teacher or, minimally, make certain he/she is never allowed to return to the classroom. Also, if there is a finding of abuse, other schools must be informed. This office pursues charges administratively, while monitoring criminal charges, and therefore needs only prove a case by a ‘preponderance of the evidence’, a much lower standard than the ‘beyond a reasonable doubt’ required in criminal cases.

3. Reform New York’s Statute of Limitations

Current law limits civil and criminal claims of sex abuse severely except for the highest level sex crimes.⁵

There have been numerous attempts to reform the statute of limitations in New York as to both civil and criminal cases, with very little success; indeed, State Senator Margaret Markey submits bills to broaden the statute of limitations to the state legislature every year. In 2011, her bill sought a modest extension of the limits; the 2013 version sought to eliminate all limitations in both civil and criminal suits. The Child Victims Act, A 1771 A, has been adopted by the New York State Assembly four times, but never allowed to make it to the State Senate floor. In August, 2014, State Senator Jeff Klein told *The Riverdale Press* he and State Senator Brad Hoylman are now prepared to co-sponsor a Senate version of Markey’s bill, but as of this writing, no legislation has been passed.

At the very least, some major reform and broadening of New York’s statute of limitations is critical as soon as possible.

4. Central Registry

Create a central, state registry of all school workers—teachers, administrators, coaches, school employees—who have been found, administratively or criminally, to have committed any form of sexual abuse. The registry should also include all teacher license revocations. The goal should be to create a national registry.

⁵ Current law and statute of limitations in NY State for child sexual abuse:

Civil: 5 years for first degree offenses, can only be against the perpetrator of the abuse, 3 years for negligence (third-party or duty of care cases) <http://sol-reform.com/new-york/> -- N.Y. Civil Prac. Law §213-c, 214, 215.

Criminal: No statute of limitations for first-degree offenses, five years for other felony sex offenses, 2 years for misdemeanor sex offenses. If the crime happens when the victim is under 18, the statute of limitations does not begin to run until the victim turns 18, or until it is first reported to law enforcement (whichever comes first) <http://sol-reform.com/new-york/> -- N.Y. PEN. LAW §130.00 thru 130.96, N.Y. CPL. LAW §30.10, Timeliness of prosecutions; periods of limitation.

REMOVAL of SOL FOR 1st DEGREE OFFENSES WAS IN 2006. Applies to all claims not yet barred on June 23, 2006. <http://sol-reform.com/new-york/details/> -- See, 2005 N.Y. S.N. 8441, 2006 N.Y. ALS 3, 2006 N.Y. LAWS 3, 2005 N.Y. S.N. 8441.

Mandated reporting: Required for apparent abuse by parents or guardians in the home, not teachers (sections §411-413); Required in an educational setting defined as "public," not private school (sections §1125-26). -- N.Y. SOS. LAW §411-428, N.Y. ED. LAW §1125-26.

Conclusion

With extremely limited resources, we have set forth what we believe to be the most critical reforms to be implemented as soon as possible. Let us learn from the horrendous example of the Horace Mann School and not allow sex abuse to be tolerated in our schools. We can begin to accomplish this goal by implementing the reforms we have suggested here.