



NEW JERSEY SENATE

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December 9, 2009

The Honorable Anne Milgram
Office of the Attorney General
P.O. Box 080
Trenton, NJ 08625-0080

RE: Tara O'Leary

Dear Attorney General Milgram:

As you know, a seventeen (17) count indictment was issued against both Debra Sloan, the skilled sponsor responsible for Tara O'Leary's daily care, and Bridget Grimes the Department of Human Service's (DHS's) Habilitation Planning Coordinator tasked with ensuring that Tara received appropriate care. Cumulatively, the indictment against Grimes and Sloan included, but was not limited to aggravated assault, official misconduct, neglect, and criminal restraint.

I believe a seventeen count indictment demands a complete and thorough investigation into the Division of Developmental Disabilities by your office. The Hunterdon County Prosecutors Office has done an exceptional job and deserves accolades for its work, but in a case where the whole system is suspected of being corrupt, it is incumbent that our Attorney General join in their effort. It is my understanding you have refused to take on this case and I would like to ask that you re-visit that decision. There are some 1,200 individuals currently in Community Care Residences (CCRs) and I have good reason to believe these problems pervade the system and are not unique to Tara O'Leary's case.

Note that over many months, my office has gathered significant information. I have also reviewed the 17 count indictment. Both raise many serious questions about DHS's civil investigation, particularly the letter of findings and their ultimate response. It is my opinion that DHS minimized the Tara O'Leary case to conceal ongoing misuse of Medicaid dollars; protect those in supervisory positions that were culpable; and obscure the lack oversight that exists at Community Care Residences (CCRs). I have learned that DHS took steps to begin destroying case documents less than a month ago and was stopped by the Prosecutor's office.

I. LETTER OF FINDINGS

First and foremost, the Letter of Finding which outlined DHS's investigative conclusions omitted significant facts and was completely silent about Bridget Grimes and her Supervisor, Marion Fenwick. The DHS Letter of Findings also minimized several of its findings to "concerns" rather than actionable items. I learned the investigative report was completed in January of 2009. The final report was not issued until August 2009 and

contrary to the assertion of DHS, the Hunterdon County Prosecutor's office did not request any delay in the report being submitted to Unusual Incident Report Management System (UIRMS) or the release of the Letter of Findings. It is my personal opinion that the final letter and report were significantly edited.

The Hunterdon County Prosecutor's Office believes Grimes to be guilty of six (6) counts of Official Misconduct. Some of those same abuses violate New Jersey Administrative Code 10:44B which governs the Community Care Residences (CCRs) and the role of the State. In its opening definitions 10: 44B-1.3 "Abuse" includes physical injury and withholding food, among other things.

Grimes submitted reports to Fenwick monthly, some of which I have read, and does not ever mention that Tara O'Leary and Erin Germaine were losing weight. Further, just as significantly, Grimes does not ever mention that Tara and Erin were restrained in their bedroom with both a gate and a door whose lock was reversed so that a key was necessary to unlock it from the inside. Tara and Erin were allowed to crawl around the floor of their room though the carpet reeked of urine and Tara's diaper was duct taped to her body. The DHS letter of finding never mentions that Tara and Erin were restrained which is criminal and abusive.

As you know, when both Tara and Erin received medical attention, they were found to have been starved – in Tara's case to death; weighing 40 lbs and 38 lbs respectively. DHS does not mention Erin Germaine or hold Fenwick and Grimes responsible in anyway in the Letter of Findings or the Final Incident Report.

In a blatant show of disrespect for Tara, Grimes wrote in an Individual Habilitation Plan (IHP), that she intends to have Tara take piano lessons. Fenwick as the Supervisor, who had ultimate oversight for Tara's care, should have known immediately the ridiculousness of that suggestion.

II. MEDICAID FRAUD

Tara received Medicaid dollars through the Community Care Waiver 1915 (c) which is titled New Jersey Community Resources for People with Disabilities.

It is my understanding that in order to remain eligible to receive these funds an individual must be engaged in "active treatment". Active treatment is defined as aggressive and ongoing treatment meant to progress the client. This was not happening for the individuals in Sloan's care. The August 2009 report from State Comptroller Matt Boxer found a similar pattern and projected millions in waste. The practice of submitting for reimbursement without verifying attendance is widespread and customary both for the provider and the State. While DHS noted Tara attended only 17 days over two and a half years in its Letter of Findings it never notes the need to reimburse Medicaid.

In addition, under NJAC 10:44B-1.6 (g) a Personal Needs Account, which is regulated by the Social Security Administration, provides for personal spending. In the case of Tara O'Leary items such as clogs, a jungle gym and size 12 clothing – though she weighed approximately 40 lbs – were purchased. This was in direct violation of 10:44B-1.6 (g). Grimes was required to review these expenditures on a monthly basis.

III. CASEWORKER LYING AND MANIPULATING FAMILY

DHS does not mention in the Letter of Findings that Bridget Grimes over the course of years lied to the family, initially insisting that "the guardian" did not want them to have contact though Tara had no guardian, and later not allowing visits with Tara unless they were at a municipal building. Throughout Bridget Grimes told the family that Tara was with people who loved her. When Tara's family began to inquire why she looked thin, Bridget would threaten to not allow them to visit with her again. At one point, Grimes suggested Tara had an

“old age disease”. Bridget Grimes had unchecked authority over both Tara and her family. Marion Fenwick failed to oversee Grimes work and is as culpable for Tara’s eventually death as is Sloan and Grimes.

DHS ignored all of the in its Letter of Finding and its Final Incident Report.

IV. FINAL INCIDENT REPORT

The Department of Human Services did not include the names of caseworkers or supervisors in the final incident report. By excluding this critical information an administrative law judge may not be able to determine the culpability of the state employees who were tasked with protecting the well-being of a developmentally disabled young woman. I believe both Bridget Grimes and Marion Fenwick share in the responsibility for Tara O’Leary’s death.

V. DHS DID NOT SECURE COMMUNICATIONS/TRIED TO SHRED FILES

When the investigation was initiated, the Department of Human Service’s did not secure communications among the employees who were under investigation, specifically Grimes, the caseworker, Fenwick, the supervisor, Sloan, the skilled sponsor, and the regional office administrator, Marge Briegel. Therefore, these employees who oversaw and were directly involved with Tara’s care, potentially had an opportunity to collaborate and conspire to conceal evidence that would have provided insight to investigators seeking to determine the culpability of their actions.

It is obvious to me that DHS has not worked to resolve the issues that directly lead to Tara’s death and did not take action to reprimand those culpable. I hope you will consider initiating your own effort to undertake a broader investigation with the Hunterdon County Prosecutor. I look forward to your help and response.

Respectfully,



Senator Jennifer Beck

Cc: Prosecutor Patrick Barnes, County of Hunterdon
Ass. Prosecutor Dawn Solari, County of Hunterdon
Deputy Attorney General Gene Rosenblum, DLP
Commissioner Jennifer Velez, DHS