



Ombudsman of BRITISH COLUMBIA

*PUBLIC REPORT No. 32*

November 1993

ABUSE OF DEAF STUDENTS AT  
JERICHO HILL SCHOOL

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November 8, 1993

The Honourable Art Charbonneau Minister of Education  
Parliament Buildings  
Victoria, British Columbia

V8V 1 X4

Dear Mr. Charbonneau:

*Re. Report of the Ombudsman on the Abuse of Students at Jericho Hill School*

The investigation by the Office of the Ombudsman into the abuse of children at the Jericho Hill School for the Deaf is now complete. In the course of this investigation, we spoke to former students, their parents, staff, therapists and government officials. We have listened to what the students and their families have had to say. We believe that sexual, physical and emotional abuse of the students by staff and peers took place. It is important to remember that not all of the students at Jericho were abused. For those who suffered abuse at any time while resident at the School, however, we believe it is time for the government to acknowledge what these students have said. On behalf of all of us, at the very least, government should apologize to them.

Our investigation focussed on the lack of action by those in positions of trust and authority when the claims of abuse were reported.. Consistently, those responsible focussed on the ramifications of the claims for them in terms of their role as an employer and any potential criminal liability of those against whom the allegations had been made. Little attention was paid to their paramount responsibility - the safety and well being of the children and youth in their charge. When the claims were made to those in charge, the process undertaken was inadequate to explore their truth, to confirm their validity and to protect all of the children residing at the school.

Much has taken place since our investigation began. Even more has transpired since our interim report in June of 1992. We are pleased by the progress that has been made. While many of the systemic improvements are as a result of our investigation and report, to the credit of government, many were at its. initiative. We are optimistic that the remaining outstanding matters will be treated with the same serious effort as those that have been completed. The leadership and concern demonstrated by your predecessor and her staff are to be commended.

This investigation raised many important-matters. The key issue is the need for government to meet its obligation to children who cannot be served in their communities, who are in the care of government as a result of the public service being unavailable near home, and who are potentially at risk of abuse or harm. Children have long been considered non-persons or incompetents in the eyes of the law. Their opinions and perspectives -have been discounted on the basis of their age. This disenfranchisement imposed by the law has permeated, not just the criminal law, but many other aspects. of both the judicial and administrative processes.

Children who are deaf, such as the abuse victims at Jericho Hill School, were discredited on two fronts. Not only were they children, but they could not communicate in the so-called normal way. Many could not communicate verbally. They used sign language to talk to one another. So while we encouraged most children in the eighties and the nineties to "go tell", we were not prepared to listen

to what children who were deaf had to say. The systems upon which we rely were never designed to meet the needs of children who are deaf or children who are disabled.

Most of the administrators and caregivers at the school were not proficient in American Sign Language. Few, if any, police or Crown Counsel could communicate with the abuse victims claiming abuse. Most of the parents of the resident children had never been given the opportunity to learn sign language and to communicate effectively with their children. These children had few people, except each other, to go tell.

In order for our society to be truly inclusive, the language of the Deaf, American Sign Language, must be recognized as just that - a language - in order for Deaf children and youth and their families to communicate on an equal footing.

One of the fundamental elements of fairness is the right to be heard. This is not a right reserved to those who communicate orally, relying on their ability to speak and to hear. It is a right that belongs to everyone regardless of the means by which they communicate. The children at Jericho who struggled to let their claims be known were ignored, discredited, and unsupported. Their claims were measured strictly on the basis of whether there was evidence sufficient to justify criminal charges being laid. The administrators responsible for Jericho seemed to consider only the criminal aspects of the reports. Few considered the importance of early, appropriate and fair intervention. This was an error.

As those primarily responsible for the administration of the residential program at Jericho, their first responsibility was to intervene and provide fair, equitable and appropriate service to children who were identified or self-identified as abuse victims. Their actions ought not to have been guided by the response given to the situation by the police and Crown Counsel. Decisions regarding criminal charges were best left to those responsible. The law at the time of the first reports was such that the reluctance on the part of the police and the Crown Counsel to proceed to lay charges may have been reasonable. That does not remain true today. Changes to the law since then have eliminated some of the obstacles to prosecutions which are based on the evidence of child witnesses.

This report does not document specific examples of abusive conduct suffered by the residents. This is for three reasons. First, based on all of the information reviewed during the course of this investigation, it is clear to our Office that abuse occurred of many students, by staff and peers, over a period of many years. We do not feel it necessary or appropriate to try to justify that conclusion by citing some examples of the stories we heard.

The second reason is as compelling. Since the original reports of abuse, the law and attitudes have changed towards child and abuse victims. Criminal proceedings related to some abuse allegations at Jericho Hill School are before the court. The criminal investigation also continues. My obligation as Ombudsman is to proceed with the utmost caution to avoid jeopardizing in any way whatsoever the

ability of Crown Counsel to proceed with charges. Citing specific examples of abusive behaviour which implicitly might identify the accused or the victim is considered inappropriate and unnecessary for the purposes of this report.

And finally, it is out of respect for the abuse victims and their families. Some prior residents still have not shared the details of the abusive incidents with their families. Many have had to repeat their stories over and over to countless officials. We believe that those who state they have been abused should be believed and that recounting the details is unnecessary, disrespectful and undignified. So far as specific incidents are concerned, the students who were abused are entitled to their privacy at this point, unless they choose otherwise.

In conducting this investigation and preparing this report, we acknowledge the significant contribution made by Ms. Patti Dobie and Mr. Henry Vlug. These individuals served as consultants to our Office providing invaluable insight and advice about the Deaf community and culture. We also wish to acknowledge the assistance of Ms. Caroline Ashby, a skilled and professional sign/voice interpreter.

The investigation into Jericho Hill School, like other reports emanating from our Office, document the tragedies that occur for some children who are dependent on government services outside of their natural homes. It is hoped that this report serves as a further guide and an incentive to improve how we meet the needs of children in British Columbia, particularly their need to be safe, in the hope that such tragedies are not repeated.

Yours very truly,

Dulcie McCallum

Ombudsman for British Columbia

Enclosure

# Principles of this Report

1. All children and youth have the right to be valued and to be treated with respect and dignity.
2. All children and youth have the right to understand, to be heard, to be listened to, and to access appropriate advocacy supports.
3. All children and youth have the right to enjoy the fundamental human rights outlined in the UN Convention on the Rights of the Child.
4. All children and youth have a right to a safe physical and emotional environment.
5. All children and youth have the right to receive appropriate programs from adequately trained and properly motivated staff.
6. All children and youth should have the opportunity to access publicly funded services as close to their home communities as possible.
7. Deaf children are entitled to have their membership in Deaf culture recognized and respected.

## Deaf Culture

Deaf people are a unique group with their own language, culture, social organization, literature and other art forms, and history. Deaf children are also members of the cultural group of their parents. They are bicultural.

In Canada, American Sign Language (ASL) and la Langue des Signes Quebécois (LSQ) are used by the Deaf. These languages are not just different versions of English or French. ASL and LSQ (and other national Deaf languages) are languages in their own right, as are English, French, Japanese, et cetera. ASL and LSQ have their own grammar, syntax and other rules. ASL and LSQ are the languages of Deaf culture.

Deaf people have their own formal and informal social organizations. There are rules of behaviour that govern their interactions and those between Deaf and non-Deaf people. There are many formal Deaf organizations at local, provincial, national and international levels. Evidence of Deaf culture can be readily found. A recent showing at the Vancouver International Film Festival included *IN THE LAND OF THE DEAF*, a French documentary in French Sign Language.

Being Deaf is not just about being unable to hear. Being Deaf means membership in a positive, supportive and distinct cultural group.

The Office of the Ombudsman recognizes and respects the Deaf culture and what it represents and means to people who are deaf.

## INTRODUCTION

In 1987, the Ombudsman's Office began an Ombudsman Initiated Complaint after being contacted by a person who said that authorities were investigating reports of sexual abuse at the Jericho Hill Provincial School for the Deaf. The complainant expressed concerns that nothing would be done to ensure the safety of the children in the residences.

We had telephone conversations with some individuals who were providing services to students who disclosed abuse. We spoke with Ministry of Education staff who informed us that improvements and changes arising out of the investigation would be implemented. In November 1987, the Ombudsman's Office received written confirmation from the Ministry of Education, through the school administrator, that actions were being taken to address the issues resulting from abuse allegations. We were told that the allegations of abuse had been addressed and that students were receiving therapeutic services. At that time, we were also informed that changes would be made to the facility and that staff would participate in training to understand the dynamics of sexual abuse. We maintained an open file to monitor the implementation of these improvements.

The Ombudsman became involved again in November 1991. We received a complaint from a person who alleged that not all of the improvements or changes suggested as a result of the 1987 investigation had been implemented in spite of assurances we had received. The complainant said that:

- not all students who disclosed abuse were receiving counselling;
- many parents were still unaware of the details of abuse;
- conditions in the residence which allowed abuse to occur in the past remained.

We wrote to the principal at Jericho Hill School and informed him of the complaint. At his invitation, Ombudsman Officers attended a March 1992 meeting with the principal, an assistant director for the Ministry of Education, and an assistant Superintendent of School District No. 41 (Burnaby) that assumed authority for the administration of the school in January 1991. We were informed of the steps that had been taken to ensure that children are safe, refuting the complaint that changes had not been implemented.

In the spring of 1992, the Vancouver Province newspaper published a series of articles about past

abuse at Jericho Hill School. These stories generated many calls to this Office from parents and advocates of former students, as well as from many students themselves. Some students wanted us to know that they were not abused while attending Jericho Hill School; others that they had been abused. Many who contacted us said they believed that government had covered up the previous investigation to protect itself.

In all, we have received more than 60 calls from those who had something to say about their experiences at Jericho Hill School. We heard from both students who are blind and students who are deaf. Some students said they had not been abused. Some students said they had been physically abused. Some students said they were sexually abused and some students described being emotionally abused. Some children reported that they were abused physically, emotionally, and sexually.

In the spring of 1992, the Ombudsman's Office undertook the investigation into the actions taken by government when students reported abuse. The police and Crown Counsel investigated the issue of laying criminal charges. Our investigation focussed on the response by government to recurring allegations of abuse.

Throughout this investigation, the role of the Ombudsman has been to advocate for child centred administrative fairness by determining whether decisions were made fairly and by recommending changes that will redress past unfairness and ensure fair actions and decisions in the future. In this report we have used the term "accused" to refer to a person who was alleged to have offended. This term has particular meaning when used in a legal context, referring to someone formally charged with an offense. We have used this term not in a legal context, but in a moral context to describe a person, accused by another, of having abused or neglected.

The following report summarizes our investigation.

## 1982

In June of 1982, 10 students made allegations respecting two staff members. Subsequent interviews of these students also revealed uninvited sexual activity initiated by students on other students. The Ministry of Human Resources (MHR) Child Abuse Team (CAT) was notified and agreed to interview residence staff. The Director of Hearing Impaired and Speech and the Director of Special Education Administration also interviewed residence staff. A summer schedule to interview the children identified as abuse victims was arranged, but subsequently cancelled, apparently by Ministry of Education officials, before interviews took place.

Crown Counsel was consulted by police investigators in respect to the allegations against a

residence staff. Based on the evidence available at the time, Crown Counsel concluded that criminal charges would not be laid. On July 14, 1982 Crown Counsel sent a memo to the Vancouver City Police informing that no charges would be laid.

On July 15, 1982, the Director of Special Education Administration and the Director of Hearing Impaired and Speech interviewed one of the staff accused by students. The Director of Hearing Impaired and Speech advised the Deputy Minister of Education that Crown Counsel believed there was little likelihood of conviction and, therefore, no charges would be laid. The Director also informed the Deputy Minister that the MHR Child Abuse Team strongly believed the children's disclosures and that the Ministry of Human Resources was prepared to remove all students from the dormitories if the accused staff person continued to work there.- The Directors' joint memo to the Deputy Minister expressed concern about the number, seriousness and specificity of the children's allegations. They further stated that while they were not confident that the employer could prove the allegations, the staff person should not remain in the employ of the Ministry of Education working with children. The Deputy Minister advised that one of the staff accused by students would be transferred from the residence.

It appears that the Ministry of Education's decisions about how to respond were based primarily on the fact that criminal charges would not be laid. Based on the memo from the two directors, it is fair to suggest that serious concerns existed about the safety of the children. It is not clear whether the Deputy Minister and Assistant Deputy Minister believed that the allegations were true. The fact that children made such allegations against a care giver was not addressed by the Ministry of Education. It appears that the Child Abuse Team based their conclusions on the reasonable probability that the children's statements were accurate and that the Ministry of Education based its conclusions on the lack of corroborating evidence needed to obtain a conviction in a criminal proceeding. Although there have been changes to the laws and general understanding of sexual abuse is greater now than it was in 1982, it is disturbing that the testimony of the children about abuse by those in positions of trust was not responded to appropriately by the authorities responsible for their care.

On August 19, 1982, a Child Abuse Team social worker reported the results of its staff interviews to the Directors of Special Education Administration and Hearing Impaired and Speech. The CAT social worker wrote that he had the impression "that violations of the children's privacy were somehow normalized within the institution". The CAT social worker identified other findings and concerns in his report including:

- the lack of clearly defined policy at the school and residences regarding reporting and responding to sexual behaviour among children
- the need for staff training regarding child sexual development
- the inappropriate lack of recognition by staff of the children's need for privacy
- the inadequate supervision and reporting of staff disputes
- the failure of communication, particularly between hearing and Deaf staff
- the inappropriate residential placement together of older and younger children and the inadequate supervision of children aged 5 to 17 years of age

- physical inadequacies of the facilities.

This 1982 CAT report acknowledged efforts being taken by Jericho Hill School staff to increase supervision of staff and residents, to improve reporting and documentation procedures and to evaluate the residential facility. The report recommended that the Ministry of Human Resources support the administration at Jericho Hill School to undertake a full and detailed evaluation of the residential services at the school.

The overall conclusion -by the Vancouver City Police and Crown Counsel was that there was insufficient evidence to proceed with criminal charges against any staff member. The two Directors responsible for Jericho Hill School, supported by this information, decided no action would be taken against one of the dormitory staff because of a lack of corroboration, conflicting statements from students, and leading interviews by the social worker and psychologist who conducted the original interviews in 1982. All Jericho Hill School staff interviewed had denied any wrongdoing or knowledge of wrongdoing. Staff had expressed their concerns about the length of time this investigation had taken and the need for a decision so that things could settle down in the dormitories.

The final decision of the Ministry of Education was to transfer one staff to a position where there would be no direct contact with children. The other staff person remained at the school and was to participate in a supervision program.

In November, 1982, the MHR liaison social worker suggested to the Executive Director of Family and Children's Services (MHR) that she interview the children who had been identified by other students as victims of abuse. She suggested that the parents of all the students originally interviewed should be contacted and that she interview the younger children who were identified by the students as victims of peer abuse. As a result of the liaison social workers request, a memo went to the Manager of Family and Children's Services for clarification on four issues:

- how far to go with the investigation
- the mandate of the Ministry
- the essential actors
- the proper process.

We found no documents in MHR or Ministry of Education files indicating what, if any, reply was given. Again, the lack of a documented response at this critical juncture is troubling. More critically, those students identified as victims of abuse had still not been interviewed or provided with appropriate services.

## Ombudsman's Findings

Although the Ombudsman did not conduct an investigation in 1982, we have reviewed the allegations of abuse and the subsequent response to those allegations as part of our current investigation.

- The Ministry of Education failed to respond appropriately to the students' disclosures of sexual and physical abuse by dormitory staff. The Director of Hearing Impaired and Speech wrote in a memo to the Deputy Minister stating his belief that "there is a strong probability that the allegations are true". We found no documentation to demonstrate what immediate steps were taken to ensure the children who disclosed were being supported and provided with services. The children identified by students as victims of abuse were not interviewed and their parents were not informed that their children had been identified as victims of abuse. From a review of government documents, one could conclude that the first concern of senior management was to respond to personnel matters rather than, as a paramount concern, respond to protect the interests and ensure the safety of children.
- There is no indication that either dormitory staff or the Ministry of Education Deputy Minister and Assistant Deputy Minister respected the concerns expressed by the expert members of the Child Abuse Team about the sexualized behaviour of children or that anyone questioned the source of such conduct. There is no documentation to indicate what action the Deputy Minister of Human Resources (who was ' also the Superintendent of Family and Child Service) did to ensure the safety of the children in the residence based on the reports from the Child Abuse Team.
- Jericho Hill School is the province's only residential school for children who are deaf. Children who resided at Jericho Hill School were isolated from their homes and their communities. The school was not established on a philosophical foundation that respects, enhances, supports and celebrates the culture and the fact of being deaf. There does not appear to have been the expectation that those who work there would advocate on behalf of the residents and to take seriously any allegation of abuse of children.
- In 1982, a total of ten children had come forward to report abuse by staff. The Ministry of Education appeared to accept the statements of the accused staff persons, but not of the children who disclosed. In contrast, the social workers of the Ministry of Human Resources believed the statements of the children and did not accept the statement of the accused staff persons.

The Ombudsman believes that if allegations of abuse and reports of sexualized behaviour from students had been dealt with appropriately in 1982, much of what followed could have been prevented..

# 1983

By 1983, it was evident that several outstanding issues remained to be addressed. A peer abuse incident between two of the students interviewed in June 1982 was reported in January 1983 to the Principal and to the Director of Hearing Impaired and Speech. The school psychologist and the MHR liaison social worker interviewed both students and contacted their parents. The school principal notified the mother of the alleged aggressor that the student would be suspended for 8 days because of inappropriate behaviour. The student's mother unsuccessfully challenged the suspension, explaining that her child had told her about being abused by a dormitory staff person and that this abuse caused inappropriate sexual development that led the student to offend.

In February 1983, a letter was sent from the school principal to parents of the students originally interviewed in June 1982 stating that the students would soon be interviewed again for the purpose of telling each student he or she was right to tell someone about her or his fear and that there were several people in the school that students could talk to about their concerns. Transcripts of these interviews indicate that they did not take place until May 1983 and, in some cases, not until June after another claim of abuse was received.

Objectives for dormitory staff were developed by the staff in consultation with the principal and a report was prepared in March 1983. The organization of the report implies that communication with the students was a low priority. The first four topics addressed were communication with residential staff, other departments, parents and outside agencies. Communications with students in the residences is included three pages later "communication - sign language". The report recognized that sign language was not in the staffs job description and staff ability was limited. This resulted in inadequate communication between staff and students. The report recommended an objective for all staff of fluency in sign language and suggested that further discussions with management were necessary to explore the possibility of instruction in this area.

The Executive Director of Special Education suggested three additional objectives be added:

- overcome weaknesses in approaches to dealing with children
- overcome weaknesses in attitudes toward children
- overcome weaknesses in supervision skills.

On June 7, 1983, a student, who had been identified in 1982 by other students as a victim of abuse by staff, disclosed incidents of sexual abuse by one of the same staff persons accused by students in June 1982. The Deputy Minister of Education reported the disclosure to the Deputy Minister of Human Resources noting that this was the second accusation against this staff person. The Deputy Minister of Education requested the personal intervention of the Deputy Minister of Human Resources to ensure the investigation was "thorough but expedient" with results quickly reported to allow necessary action. The Deputy Minister of Education was concerned that Jericho Hill School was already critically short of staff and that having an employee suspended pending the outcome

would put a strain on limited staff resources.

In June, 1983, the school psychologist and the MHR liaison social worker interviewed the children identified as victims of the staff person's abuse as well as others who spent time with that staff person. All students were to receive ongoing services from the school psychologist. The school psychologist reported to the school principal his conclusion that this latest incident was the result of a staff attempting to administer physical discipline to an acting out student. The psychologist's explanation does not question the use of corporal punishment, prohibited by legislation and policy in public services for children.

The school psychologist compared his interviews to those conducted by the contracted psychologist and MHR liaison social worker in June, 1982. He concluded that during the "1981/82 school year in [the residence] a small core of male students just into puberty were causing a host of problems for staff and students alike". He went on to suggest that one student in particular was responsible for the negative sexual development of his peers.

The summary of these interviews reveal that some of the 1982 allegations against a staff person were repeated and that some of the students affirmed, although in different words, what they told in 1982. Some of the students expressed concerns that because they had told, some of the staff were angry at them.

The accused staff person was interviewed by the Director of Hearing Impaired and Speech and the Director of Special Education Administration. The directors also interviewed other child care counsellors who worked with that staff person. After a police investigation and consultation among Vancouver City Police, Ministry of Human Resources and the two Directors in the Ministry of Education, it was determined that there was no corroborating evidence to warrant criminal charges.

Even though, at that time, the *Criminal Code* required corroborating evidence for the unsworn evidence of a young person to be accepted in a criminal proceeding, again, there appears to have been considerable and inappropriate over-reliance by the Ministry of Education on criminal charges being laid as a threshold for any action. Once more, this Office is struck by the notable departure from previous expressions of concern by these two directors about this same staff person. No actions were taken to address the matter within the institution.

The local MHR District Supervisor expressed her concerns to her Assistant Deputy Minister about:

- the view of the police that the children were not credible witnesses because of their disabilities and a lack of corroborating evidence
- insufficient follow-up of children identified as victims of abuse
- the role of MHR in raising questions about the level of care provided by dormitory staff
- Ministry of Education staff interviewing their own staff about abuse.

We found no documents to determine what response, if any, was provided by the Assistant Deputy Minister, or whether or not these concerns were communicated to the Deputy Minister of Human Resources. We are, therefore, unable to report on the position taken by the Ministry of Human Resources in response to these serious concerns.

In August 1983, the principal of Jericho Hill School sent a letter to the parents of all residential students informing them of the investigation by the Ministries of Human Resources and Education and the Vancouver City Police. The letter did not inform parents of the extent of the allegations, nor did it inform parents that other children had been identified as victims of abuse, but not interviewed.

The effect of an ongoing investigation was taking its toll. Two dormitory staff expressed their belief that there was a witch hunt going on. Some of the residence staff expressed the view that someone was deliberately trying to create problems for the institution, so that it would be closed. Some staff at the school complained about the role of the contracted psychologist and the MHR liaison social worker who interviewed students in June 1982, suggesting that they were looking for abuse allegations.

The Director of Hearing Impaired and Speech was concerned that ongoing investigations caused adverse publicity for the school and stress on staff.

The Director identified some concerns in a report document, including a lack of a clearly defined role for the Ministry of Education in investigating complaints about staff and that staff and parents of students had expressed their concerns about the impact of the interviews and ongoing investigation. A meeting was held in October 1983, with the MHR Regional Manager, the MHR liaison social worker, two Vancouver City Police investigators, the school principal, the Director of Hearing Impaired and Speech and the Director of Special Education Administration. The purpose of the meeting was to achieve closure on the investigation, ensure follow-up and review implementation of the December 1982, recommendations in the Child Abuse Team report.

At the meeting, the Vancouver City Police reported that they considered the case closed and that the Crown Counsel had advised no charges would be laid in response to one student's allegations due to a lack of corroborating evidence. It was urged that students and their parents receive follow-up support services. Family life and sex education courses were planned for the following spring. The recommendations in the December 1982 Child Abuse Team report were reported by Ministry of Education staff to be partially implemented or considered. An evaluation of the dormitory had been undertaken and the results had been reported to the Ministry of Education.

## Ombudsman's Findings

- Most authorities and agencies discredited the children as not credible or competent witnesses and yet the investigation remained open for more than one year. This Office has concerns about the undue delay and the length of time taken to deal with the investigation given the strong expressions that discredited the students' disclosures. It took an unreasonably long time to conclude that the disclosures received in June 1982, would not be acted upon, although the first indication that no charges would be laid against one of the accused staff person was reported in July 14, 1982.
- The Child Abuse Team indicated their strong belief in the disclosures of the children. The action taken against the accused staff persons included a transfer away from children and a threat of discipline for any future reports. It is unclear from file information what specific services were provided to parents and students. We were unable to determine which families were offered or received services. It was not clear from file documents which of the recommendations made in the 1982 Child Abuse Team report were implemented, what the conclusion of the outcome of the dormitory assessment was, or what specific steps, if any, were taken to respond to the assessment.
- Those who maintained their belief in what children said were criticized by the Ministry of Education and the Vancouver City Police. The contracted psychologist who participated in the June 1982, interviews was criticized for looking for abuse and discredited for her' interview style. The MHR liaison social worker believed that the Director of Hearing Impaired and Speech was trying to have her fired and there are documents to support that concern. Ministry of Education and the Jericho Hill School staff reacted with criticism to those who advocated for the students, to those who believed students' disclosures. - In fact, the Office of the Ombudsman heard critical comments during our recent investigation about those people who believed the children.
- The Director of Hearing Impaired and Speech originally took the position that there was a strong possibility that abuse reports were true. A year later, the Director is wondering about action against the liaison social worker because of her insistence on the truth of the reports. The Director of Special Education, in relation to one of the accused staff, also appears to have done an about-face. These changes in attitude are never explained.
- There did not appear to be any general awareness of the re-victimizing effect on the abuse victims of many of the actions taken or not taken. These include:
  - delay in dealing seriously with the accused staff
  - failure on the part of the official caregivers to notify parents of the children about what ought to have been considered very serious allegations
  - no effort to improve the communication capacity between staff and students

- lack of supportive response to the trauma of abuse including provision of counselling
- multiple, discredited and disbelieved interviews of the victims of abuse
- discipline of students for troubled behaviour, re-victimizing the victim.

Except for a few isolated attempts by some MHR staff, no effort was put into developing safeguards to protect already identified or future abuse victims, independent of whether the accused could be held criminally responsible. The apparent lack of careful concern for and tracking of those who had already come forward by those in authority demonstrates a serious abrogation of their responsibility.

## Post 1982 Abuse Tragedies

- Of those students initially identified in the June 1982 reports, many had tragic outcomes:
  - one was found guilty of manslaughter and sentenced to 3 1/2 years in prison;
  - one committed suicide;
  - another made a serious suicide attempt;
  - one was suspended due to inappropriate sexual behaviour. While in his home community, the youth was charged with an offence against a peer;
  - another student, receiving treatment for severe depression, disclosed abuse and again identified other students witnessed being abused.

Such tragedies caused speculation about past abuse allegations at Jericho Hill School and how they might have contributed to the situation.

A parent sent a letter to the Director of Hearing and Speech Programs detailing allegations of physical and emotional abuse of her child by a teacher at Jericho Hill School. Another student disclosed to her parent sexual abuse by another student. When informed of these disclosures, the school principal contacted parents of students identified as victims of abuse to obtain permission to have their children interviewed by Ministry of Social Services and Housing (formerly Ministry of Human Resources) social workers and the school psychologist with an interpreter. The Ministry's liaison social worker interviewed three male students. The students identified other children that they either witnessed being abused or whom they had abused in a peer abuse situation. By the spring of 1987, a total of 44 children from the school had been identified by other students as abuse victims. The social worker met with the identified students and their parents, not to reinvestigate the 1982 situation, but to ensure that any child who needed therapy would receive services.

In March 1987, a second MSSH social worker involved in some of the interviews, reported to the Regional Manager of MSSH that 7 of 10 female students disclosed serious sexual abuse by male students. Two of 3 male students corroborated the most recent disclosures of the male student who initiated investigations in 1982. Most children interviewed disclosed that abuse happened most frequently between 1981 and 1982 when they were aged from 8 to 17 years. Some reported sexual touching by peers at the dorms which began when they were 5 or 6 years old. All identified other students who had been victims of peer abuse at the school. Students disclosed almost nightly sexual activity in the dormitory. Although the 1987 investigation was initially intended to look at past events, one student disclosed a sexual assault that occurred the night prior to-the interview in March 1987.

Some of these former students are now complainants to the Ombudsman's Office and have reported that they were punished when they tried to tell staff about abuse. They said they were grounded. One complainant said that when she reported a peer abuse incident to the previously accused staff person, she was told by that staff person that she should like sexual attention from boys and that boys could not control their sexual urges. Some complainants to the Ombudsman's Office have stated that they did not believe police made an effort to determine what had truly happened. Some complainants said. they did not know whether or not police were present during interviews. One complainant said that, although she spoke to police on more than two occasions, when she attempted to obtain a police file number to apply for Criminal Injuries Compensation, she was told that no file existed.

The Ombudsman's Office has spoken with people in the Deaf community who have told us that their disclosures were not believed. Deaf people have expressed the damage done, collectively, to their community. The Ombudsman's Office has been cautioned by many not to underestimate the rage in the Deaf community resulting from the belief that the abuse has been covered up by senior officials.

## Ombudsman's Findings

This Office reviewed the available transcripts from the Ministry of Social Services and Housing's files. In reading the documents and transcripts of the students' interviews, we find disclosures of abuse. Some repeated disclosures from previous interviews. Some disclosed inter-familial abuse. Students did not identify anyone who could help them.

- The Office of the Ombudsman believes that if allegations made in 1982 had been believed and taken seriously that the suicides, suicide attempts and incidents of peer abuse both inside and outside of Jericho Hill School might have been prevented.

- The residence staff, by treating peer abuse simply as a discipline matter, avoided addressing the root of the problem and gave the wrong message to the students.
- Of the resident population, a total of 44 students were identified as victims of abuse and yet the Ministry responsible appeared to lack any knowledge, beforehand, of the extent or seriousness of the problems in the residence.

## Actions Taken as a Result of 1987 Disclosures

An Inter-Ministerial Children's Committee (IMCC), including representatives from Greater Vancouver Mental Health Services, was formed to deal with the 1987 abuse allegations and to provide counselling to children. The school principal took steps to ensure that residence staff had opportunities for professional development in the area of child sexual abuse. In March 1987, the school contracted with a sexual abuse expert from Seattle to conduct workshops for Jericho Hill School staff.

A final report on the abuse accusations and subsequent investigations was prepared by Ministry of Education senior staff and in August 1987, a press release was issued by the Minister of Education stating that all recommendations of the report would be implemented, including:

- structural improvements to the dorms
- changes in administration
- child abuse programs for students
- psychological services for all children involved for as long as required.

It was at this time that the Ombudsman was assured by the Ministry of Education through a letter forwarded by the school principal that all recommendations that resulted from investigations about abuse would be implemented and that the matter could be considered resolved.

Mental Health officials arranged treatment programs for Jericho Hill students who disclosed abuse and their families. The Greater Vancouver Mental Health Service Society assumed responsibility for treatment shortly thereafter. In a 1988 Mental Health report, it was noted that "With one exception, the therapists had never worked with deaf clients previously". The report also identified inadequate access to mental health services for people who are deaf. This report resulted in the development of the Wellbeing Program, which included extensive consultation with those in the Deaf, Hard of Hearing, and Deaf-Blind communities.

In 1988, a former student filed a civil suit against the Ministry of Education. The suit was based on the former students allegation that the student was subjected to sexual assault on a continuing basis

between 1975 and 1982, that the staff at Jericho Hill School were aware of this abuse and that the Ministry of Education failed to provide psychological assistance to deal with this abuse. The student also alleged that he was encouraged by other students as well as an employee of the Ministry of Education to abuse other, younger students. He settled out of court by consent of the parties.

Since the Ombudsman's Interim Report about Jericho Hill School was issued in

June 1992, the Office has been contacted by former students who are blind and attended the school in the early 1960's. Some former students have come forward about abuse while they resided at Jericho Hill School, but have chosen not to pursue the issue further at this time. The Ombudsman's Office has received information from former students who disclosed abuse dating back to 1956. All callers have been referred to the Jericho Hill Intervention Project for services and advised they could report their concerns to the Vancouver City Police through that project.

## Current Status at Jericho Hill School and Government Initiatives

Some major changes have occurred since this investigation began. Some have been the result of initiatives by the Ministry of Attorney General, Ministry of Education and the Ministry of Social Services. Some remain outstanding.

In January 1991, the responsibility for the educational services of the Jericho Hill Provincial School was transferred to School District No. 41 (Burnaby). Students who would have attended the Jericho Hill School site now attend school in Burnaby. Two new schools were constructed (South Slope Elementary School and Burnaby South Secondary School) to accommodate both Deaf and non-deaf students. Both of these schools serve as provincial models of education for children who are deaf. Planning for the construction of a new residence, or residences, for Deaf students is underway. Once completed, new residences will provide accommodation for students who have come from other areas of the province to attend the Burnaby schools. The existing residence, and the administration of the new ones, continues to be the responsibility of the Ministry of Education.

The Office of the Ombudsman had an opportunity to visit the two new school sites. Both schools are designed to accommodate students who are deaf as well as hearing. The schools offer audiology testing, the services of a public health nurse, a signing physician, counsellors, social workers, vocational counsellors, and a nutritionist. Television monitors, visible at every location, indicate the school time table. These same monitors display messages and notify students of class changes. School announcements are presented on the television monitors, using a split screen, by both Deaf and hearing students. Fire alarms are equipped with strobe lights. The hallways have no sharp, right angled corners and ensure maximum visibility to oncoming traffic. Facilities are wheelchair

accessible.

Students were consulted in the design process and there are some features of the schools that were included because of their input. For example, elementary school-aged students indicated that they wanted lockers and these were installed. At the request of Deaf students, Burnaby South Secondary School has a prominently located, open lounge area designated for the use of students who are deaf, allowing them their own space to enhance their opportunities to communicate and meet with each other. The School District of Burnaby can be proud of these two new facilities and their efforts to recognize all aspects of Deaf culture in their school system.

The issue of access to public services continues to be of major concern to the Deaf community. The Deaf community has noted that there are very few people who are deaf employed in the public service. There have been some positive changes. The Ministry of Social Services has hired a Deaf social worker who holds the position of Community Development Worker in Vancouver.

Her duties include:

- ensuring the safety and well-being of students living in residence while attending the Provincial School for the Deaf in Burnaby
- liaising with the Provincial School for the Deaf and the residences
- recruiting Deaf foster parents
- supporting and facilitating parenting groups for Deaf and hearing parents of Deaf children and Deaf parents of hearing children
- educating and providing consultation to Ministry of Social Services staff on Deaf culture, the use of interpreters, and communication needs of people who are deaf.

The Ministry of Social Services now has TTY (also known as Telephone Device for the Deaf, or TDD) access. Vancouver callers can dial the TTY at 660-0508 for the Helpline for Children and those outside the Vancouver area can call 1800-667-4770, toll-free. The Community Development Worker is accessible through toll-free TTY 1-800-663-1150 or 775-1364 in Vancouver.

In the June 1992, Interim Report on Jericho Hill School, the Ombudsman's Office identified our concern about unequal access to public services by the Deaf community. We recommended:

*That government appoint and provide resources to an independent Action Council made up of members of the Deaf community with a mandate to make recommendations to ensure fair access to all public services.*

This independent Action Council would be made up of members of the Deaf community to address issues both in Jericho Hill School and in the Deaf community. The council would have a mandate to make recommendations to government to ensure fair access for people who are deaf to all public services. We note a similar recommendation in a report prepared by the Task Force on Quality

Assurance for the Deaf and Hard of Hearing in North Carolina. This task force's report included an appendix stating the educational rights for children who are deaf or hard of hearing. This statement is recognized by American Congress. Although public services are not still not equally accessible by people who are deaf, our recommendation has not yet been implemented.

Despite positive steps undertaken by government, some services provided to former students of Jericho Hill School have not met the Deaf community's expectations. Few therapists know American Sign Language and most are able to communicate with their Deaf clients only through an interpreter. Some Deaf complainants have indicated that they are more interested in the therapists' ability to communicate directly with them than they are in professional qualifications as therapists.

Few therapists have TTY telephones in their offices. Clients who are deaf cannot direct dial their therapist if the therapist lacks a TTY, but must use the Message Relay Centre, a B.C. Telephone Company service that involves a hearing intermediary and, therefore, means clients cannot have privacy. This may be essential to this relationship. Some complainants suggested that there should be greater choice for the Deaf community, as some individuals may prefer to pursue counselling with an "unqualified" lay person who is deaf or who is fluent in ASL, rather than consult a qualified professional who cannot communicate with them.

It is important that people who are deaf have equal access to post secondary education so that they can acquire the qualifications which will enable them to take their place among professions. It is also important to recognize that the ability to communicate may have greater significance to a successful relationship between a client and a counsellor than any other criteria. The Wellbeing Project mandate and current work plan include the recruitment and training of Deaf employees to provide support and counselling, the development of a mutual aid, and advocacy for Deaf people in gaining access to health and social services. The training or mentorship program would be carried out in the context of a mental health program, following standard policies and procedures. The issue of choice in therapists is one that could also be addressed by the Action Council which could make appropriate recommendations to government.

Since the release of the Interim Report, we have met once with the team at the Jericho Hill Intervention Project (JHIP). JHIP is a team made up of a Deaf consultant, social workers and mental health workers from the Ministries of Social Services (previously Ministry of Social Services and Housing) and Health, members of the Vancouver City Police Department and professional sign and voice interpreters. One of its roles was to determine whether or not Jericho Hill students are in need of protection and to offer them services. JHIP staff interviewed each residential student to ensure that children currently residing in the dormitories at Jericho Hill School are safe. Letters were sent out to almost 300 former students of Jericho Hill School to inform them of the availability of services provided through the JHIP.

The JHIP made 98 referrals to mental health services and employed 18 therapists on contract. A Seattle therapist who is Deaf and who has considerable expertise in sexual abuse issues has been contracted by the Wellbeing Program to come to Vancouver four days per month. Considerable awareness of the issues has been raised among the professionals providing services in the Greater Vancouver area.

We understand the JHIP will be making a report to government about their involvement in coordinating and ensuring services to former students and their families. At this time, the JHIP report has not yet been available to our Office and we are, therefore, unable to comment on it.

We have also met numerous times with officials from the Ministry of Education. These meetings have allowed us to discuss current initiatives been taken by the Ministry of Education to address the concerns identified in our June 1992 Interim Report, including:

- lack of acknowledgement by those responsible for the children at Jericho Hill School residence that the abuse occurred
- lack of recognition of ASL as the official language of choice of the Deaf community.
- lack of services provided to students who are suspended from school or the residence
- insufficient proficiency in communication skills by staff serving students who are deaf
- insufficient skill levels of caregivers
- inadequate school environment to meet needs of students who are deaf
- appropriateness of follow-up support services to students and families
- assessment and evaluation of residential services provided to students attending Jericho Hill School and the new schools in School District No. 41 (Burnaby)

An independent assessment was conducted by a consultant to evaluate the residential component for the students attending Jericho Hill School and the new schools in Burnaby. We are confident that the Ministry of Education is committed to the implementation of the recommendations arising out of this assessment. Steps have already been taken to ensure that existing facilities meet the physical safety of students with the installation of flashing lights to signal alarms, telephones, and door bells. We have discussed the possibility of having toll-free TTY/TDD telephone numbers accessing the residence to enable families to make regular contact with their children. Parents of students residing at Jericho Hill School have been provided with TTY telephones on a loan basis from the Ministry of Education.

The Ministry of Education has advised of its intent to implement policy which acknowledges that American Sign Language is the language of the Deaf community and shall be recognized, in the residence, as the primary communication for students who are deaf. The Ministry has also informed of efforts to ensure that eventually all staff will be able to communicate in ASL. New employees are being rated on their ability to communicate in ASL.

The Criminal Justice Branch of the Ministry of Attorney General has trained Deaf Victim Services Workers to provide support to Deaf complainants, witnesses and their families through the criminal justice branch. In addition, Crown Counsel has developed a protocol (see appendix A) to ensure it provides appropriate services to the Deaf community. The Criminal Justice Branch has installed TTY telephones in Vancouver and Victoria. The Criminal Justice Branch has coordinated the development of a format to assist police and ensure that Deaf suspects are properly informed of their rights under the *Canadian Charter of Rights and Freedom*. Training packages have been prepared on Deaf culture and issues of importance to the Deaf community to assist in training Crown Counsel, police officers, and others involved in the justice system.

The Ministry of Attorney General has appointed former Supreme Court Justice, Mr. Thomas Berger, Q.C., to review claims for compensation. Mr. Berger's appointment, as Special Counsel to the Attorney General, is unprecedented in British Columbia. He will provide recommendations to the Attorney General on a process to resolve these claims on a non-confrontational basis. It is not necessary for individuals to have filed a report with police to be able to put forth a request for compensation to Mr. Berger. As with any vulnerable person, the Ombudsman supports the entitlement of those who choose to access Mr. Berger to be accompanied by a support person, a friend, or an advocate.

An Inter Ministry Working Group has been established, chaired by the Assistant Deputy Minister of Student Service Program Department, the Ministry of Education. This working group meets every two weeks and provides information about the Jericho Hill School issues to the Deputy Ministers of Attorney General, Education, Health, and Social Services.

In addition to the Inter Ministry Working Group, there is an Inter Ministry Access Committee including representatives of the Ministries of Social Services, Health, Education, Job Skills and Training, Attorney General, School District No. 41 (Burnaby). The Inter Ministry Access Committee provides support to the newly created Deaf Access Office for Jericho Hill Responses. The Access Committee focuses on the inter ministerial planning necessary for initiatives affecting current and former Jericho Hill residential students.

The Deaf Access Office provides a single point of information regarding services for public servants and those who attended Jericho Hill School. The Deaf Access will ensure follow up on social and health services to former students and their families. The Deaf Access Office offers a 24 hour help line for the deaf. It will also assist former Jericho Hill students to connect with Mr. Berger.

The Deaf Access office can be reached by TTY at 660-2193 or by voice at 6601518. For those residing outside the Greater Vancouver region, Deaf Access can be reached toll free by TTY at 1-800-663-1150.

Delayed as it has been, we have been encouraged by the current response of the Ministry of

Education. We believe that Ministry officials are sincere in their effort ' s to make right the wrongs of the past. More recently there has been considerable energy finding solutions by those within the Ministry in conjunction with our Office. We trust this work will continue under the new Minister. We have noted in Appendix B the response of government, to date, to those recommendations made. We will revisit these issues within 18 months to review with-the Ministries, and to report if necessary, what actions have been taken to fulfil governments commitment.

## Ombudsman's Findings and Recommendations

- The Right to Safety

Deaf children were sent to reside at Jericho Hill School so that they could receive an education. Few public schools in the province were able to accommodate the communications needs of Deaf students. Children sent to reside at a school for the deaf are entitled to be safe, to receive high standards of care with caregivers who can understand and communicate with them. Those responsible for the care of students are also responsible for ensuring their safety and well being.

- Standards of Care

In November 1990, this Office released Ombudsman Public Report No. 22 *Public Services to Children, Youth, and their Families.- The Need for Integration*. Public Report No. 22 made recommendations to government about the need to establish common provincial standards of care, including health and safety standards for children's residential programs. The Office also made recommendations about a uniform approach to standards monitoring and enforcement for children's residential programs. It recommended that government explicitly define the entitlements of children in state care. Since that time, the Ombudsman's Office has taken every opportunity to press government to respond to the need for uniformity of standards for all public residential services delivered to children and their families regardless of which authority is providing the service.

- Residential Services

The Ombudsman believes that all residential services to children should be monitored by one authority. The Ministry of Education should not remain in charge of the residential program of Jericho Hill School because it lacks expertise in residential programs and the community-based infrastructure necessary to serve the children. The Ombudsman's Office recognizes that the withdrawal from direct residential services by the Ministry of Education might be seen by the public as the Ministry abandoning its responsibility. It is not our intention to create such a perception. Rather, we recognize that residential services should be provided by an authority which has the appropriate skills and experience to deliver quality residential services.

The Ombudsman's Office believes that the delivery of residential services should meet several criteria:

- planning for and the delivery of service should involve the Deaf community;
- service delivery would address the problems identified in this report;
- planning should address issues of communication, advocacy, integration and supports for families;
- accountability to the Office of the Ombudsman and the public;
- the residential services must be part of a fully integrated model under one child centred authority.

There needs to be a transition period from the current Jericho Hill School and residence model to this new model. This transition period cannot be rushed. While the model may be fluid, flexible and changeable, it must go through natural and understandable stages. In the short term, the Ministry of Education should retain its role.

### **Recommendation #1:**

The residential program at Jericho Hill School should be transferred to an authority that has expertise in residential services to children. The Ministry of Education should oversee this process. Services should be delivered in partnership with their consumers and administered with Integrated residential standards. In the new model accountability to the public and the Ombudsman's Office is also necessary and must be ensured.

### **Government's response to recommendation #1:**

The Ministry of Education recently received the completed independent assessment of the Jericho Hill residence. Government has stated that the issue of the most appropriate

employer model for the Jericho residence is under active examination. A decision will be forthcoming as to which ministry should manage and/or oversee the resource or whether the residence should be managed by an independent agency.

Government has assured the Ombudsman that it is and will continue to be accountable to the public for the residential services it provides..

The Ombudsman is aware that the current residence has not been a licensed facility. The Ombudsman assumes that new residences will be licensed in accordance with the *Community Care Facilities Licensing Act*.

Government has responded to our comments about licensing of the residential program by advising that the *Community Care Facilities Licensing Act* does not currently include facilities such as the Jericho Hill Residence under its purview. The Ombudsman suggests the Act provides sufficient discretion to include facilities such as the residence under its legislation. We raised this issue in November 1990 in the Ombudsman's Public Report No. 22. The Ombudsman recommended a review of existing legislation to develop "a comprehensive licensing or certification mechanism to be uniformly applied, monitored and enforced across all ministries which fund contracted residential child and youth care resources or facilities".

## • The Decisions Made

Decisions were made that there was insufficient corroborating evidence to proceed to criminal court. In our opinion, that was the wrong criteria relied upon by the government as the basis for all future action:

- In 1982, 10 children at the dormitory disclosed abuse by those in positions of trust and authority. They identified other children whom they had seen abused by persons in positions of trust and authority. For the most part, they were not believed by those charged with their care.
- School and residence staff were unwilling to accept the reports of abuse from the students and in spite of the fact that some students said they told staff about abuse, staff did not acknowledge any awareness that these events were occurring.
- The students originally interviewed identified other children as victims of abuse. These other children were not interviewed. We found no file documentation to indicate who made that decision or why that decision was made.
- Because children were not believed, little effort was made by the administration of Jericho Hill School to put preventative measures into place and to ensure that the conditions which

enabled such abuse to occur were not still present. One staff person was voluntarily transferred. The other accused staff person remained until resigning. Only minor supervision changes were implemented.

- There are still individuals at Jericho Hill School who expressed to Ombudsman staff that they do not believe that abuse occurred. Vocal opposition to such accusations is common in cases such as this one.
- There was recognition that children at Jericho Hill School had communication needs not readily met by the community. Yet the Ministry did not act to adequately ensure that all Jericho Hill staff were fluent in ASL and had appropriate child care skills and training.

## • Protocols for Crown and Police

Decisions to act when children come forward about abuse cannot be based on a threshold question of charges laid or convictions handed down. The test of criminal liability (beyond a reasonable doubt) and the need for corroborating evidence should not be the determining factor for authorities responsible for children to keep them safe, to report abuse, to discipline staff, or to deal with civil liability.

In any event, the assumptions made about the abilities of the Deaf victims of abuse to give credible evidence and about the need in 1982 to have physical evidence to corroborate (rarely available in cases of child abuse) were restrictive and not child focussed when reviewed in the context of 1993. To avoid such poor assessments in the future, many changes in the area of child abuse have already been undertaken by Vancouver City Police and Crown Counsel. Recent amendments to the *Criminal Code* and Crown Counsel policies regarding Charge Standards make a repeat of the 1980's Jericho situation less likely. In 1991 Crown Counsel adopted a policy of charge standards that requires substantial likelihood of conviction before determining whether a charge should be laid. In addition, the standards state that Crown must consider whether the public interest demands a prosecution.

### **Recommendation #2:**

A province wide protocol for Crown Counsel and Police should be developed to guide the process when dealing with abuse victims and witnesses with unique communications needs.  
[See Appendix A]

### **Government's response to recommendation #2:**

A detailed protocol was developed in consultation with the Deaf community for use by the Jericho Hill Intervention Project Team. [See Appendix A]. Crown Counsel has developed a prototype format and Charter of Rights warnings to assist police and to ensure that Deaf suspects are properly informed of their rights. The Ombudsman expects that the Ministry of Attorney General will ensure that appropriate protocols are in place in each police jurisdiction in British Columbia to ensure fair treatment of accused and abuse victims who are deaf. The protocol should also be included in the Inter Ministry Child Abuse Handbook. The Ministry of Attorney General has agreed with this recommendation and informed the Ombudsman that it will facilitate a review of the current document as provided in Appendix A.

## • The Cover-up Issue

As stated earlier, many individuals, both deaf and hearing, who contacted the Ombudsman have said that they believe that senior officials in government attempted to cover up the abuse. The term "cover up" implies intention and bad faith. Too much time has passed since some decisions were made for the Ombudsman to be able to determine the intention behind the decisions.

The abuse accusations were reported, as required, to Ministry of Human Resources and to the police. Some parents were provided with some information. The Ministry of Humans Resources investigated the reports, as required. Police investigated, as required, and reported the results of their investigation to Crown Counsel. This Office does not, at present, have the jurisdiction to investigate a complaint about the Vancouver City Police Department. Crown Counsel reviewed the investigation, as required, and determined that there was insufficient evidence to proceed to criminal charges. This Office has limited authority to investigate a complaint about the exercise of Crown Counsel discretion not to prosecute.

Senior officials in government were informed of the results of the reports of the Ministry of Education, the Ministry of Human Resources, Vancouver City Police and Crown Counsel. The decision not to proceed rested on the belief that the testimony and statements of the children would not be believed in court, that there was no physical or testamentary corroborating evidence, as required at that time, to present in courts, and, as there would not be criminal charges laid, further action was unnecessary. We could find no evidence that this information was withheld from any official.

We do believe that government failed by not taking more seriously the disclosures made by students at Jericho Hill School, beyond consideration of laying criminal charges. People in positions of trust and in positions of power knew reports had been made and did nothing. Some of those young people have experienced tragic lives as a result. The inevitable conclusion reached by some individuals is that this matter was covered up.

Government had and continues to have a responsibility to those students who reported abuse.

### **Recommendation #3:**

Government should contact students who disclosed abuse In 1982 and students who were identified as victims of abuse In 1982 to offer appropriate compensation and an apology.

### **Government's response to recommendation #3:**

Government has informed the Ombudsman that all people who were interviewed by the Jericho Hill Intervention Project will be contacted and provided with information about Crown Counsel decisions and how to access Mr. Berger.

The Ombudsman acknowledges this effort, but stands by the intent of recommendation #3. All students who disclosed abuse in 1982 and who were identified as victims of abuse in 1982 have not come forward to the Jericho Hill Intervention Project. The Ombudsman believes these students are entitled to be informed of the current process available to them as well as an offer of appropriate compensation and an apology.

## **• The Issue of Belief**

Students identified the adults who had abused them. Students identified other children who had been victims of abuse. Students disclosed that they had, in turn, abused other children. Their stories were not acted upon by the police or the authorities responsible for their care. With their expertise in child abuse investigations, the members of the MHR Child Abuse Team went on record with their belief that the children told the truth. Jericho Hill dormitory staff denied any knowledge of abuse and were believed, even though they could clearly be viewed as in a position of conflict, needing to protect their own self-interests. It appears that some staff were aware of abuse situations. Those who disbelieved attempted to discredit and remove the advocates who persisted in presenting the children's disclosures as credible.

## **• Responding to Allegations of Sexual Abuse**

In 1982, society did not have the same level of understanding of the dynamics of child abuse as we have today and adults often did not believe the statements of children who disclosed abuse. Criminal justice requirements for taking such concerns before a court did not accommodate the

needs of children abuse victims or witnesses. Even today, children can have a difficult time being believed when they report abuse. Some staff lacked the child care skills and knowledge to respond appropriately to children or to provide for their care. Generally, Ministry of Education staff at Jericho Hill School appeared to lack the knowledge and skills to respond appropriately to indicators of sexual abuse. There were comments made by dormitory staff to the MHR Child Abuse Team during the 1982 investigations that children who were deaf were overly sexualized and that they did not have the same mental capacity as hearing children. In 1982 staff received reports of abuse from children and did not document or report these disclosures. The absence of any documented response is of considerable concern.

Despite these insufficiencies and negative attitudes, it has been demonstrated that there was sufficient awareness that the allegations made in 1982 should have received a more appropriate response.

## • The Language of the Deaf

A critical factor that remains a concern today is the inability of almost all parents, Jericho Hill School education and residential staff, of professionals, and of police to adequately communicate with children who are deaf. Few Jericho Hill staff had sufficient proficiency in ASL to hear what children said.

Currently, the Ministry of Education's position is that classroom instruction is taught using Manually Coded English (MCE) and, eventually, American Sign Language (ASL) as well. The Ministry informed the Ombudsman that MCE was necessary to teach English literacy and that ASL, as a language, was not sophisticated enough to teach senior level sciences. However, at Burnaby South Secondary School, Ombudsman staff were able to observe a high school science class being instructed completely and only in ASL.

This question of which language is most appropriately used as a language of instruction is one for which there is no simple answer. Many Deaf people with whom we met are bilingual. They can express themselves in ASL and in English using MCE, Signed or Exact English, and written English.

Representatives from the Ministry have stated their belief that students and parents of children who are deaf should have a choice in language for the children's education. The Ministry says that some parents do not want their children educated in ASL, but prefer their children to be educated in English, orally. We respect the need for students and parents to have a choice. We have taken the opportunity to visit classrooms where children who are deaf or hard of hearing are being educated orally. School District No 41 (Burnaby) has provided opportunities at South Slope Elementary and

Burnaby 2000 schools for all students and staff, from administrators to custodial staff, to learn ASL. In response to this report, the Ministry of Education stated its belief that both pre-school and post-secondary services must be in place, with consistent policy directions, in order to make any approach to implementation of a language policy in the public school system meaningful.

Some former students complained that the school and the residence at Jericho Hill School were not an ASL environment. They told us that they were not allowed to use ASL as the language of communication in the classroom. Some students said that ASL was the language they wanted in education, in recreation, in social gatherings, in meetings, and in residences. We were informed that at the Jericho Hill School residence the language of business was not in the language of the Deaf.

The Deaf community has informed us that ASL is their language. It is without question, essential that anyone providing a service to a student or a child who is deaf to be able to communicate in the language of the Deaf. Therefore, the goal must be that all service providers to the Deaf community are fluent in ASL. The Ministry of Education has a responsibility for establishing a standard of acceptable fluency for those who work in the residences, those who work in the Burnaby schools, and those who work as aides to facilitate communication for Deaf children in any other public school. Fluency in ASL is a long-term institutional, educational and service delivery goal that must be initiated now.

Other jurisdictions have identified ASL as the official language of the Deaf community. In 1988, the Manitoba Legislature passed a bill recognizing "the cultural uniqueness of deaf Manitobans by recognizing American Sign Languages as the language of the Deaf in Manitoba."

The Legislative Assembly of Alberta passed a motion in June 1990, that, given the cultural uniqueness of Alberta's Deaf community and the linguistic uniqueness of ASL that the provincial government recognize ASL as a language of the Deaf in Alberta and incorporate ASL into public schools and post-secondary curriculum.

The Ontario Association of the Deaf and Hard of Hearing successfully lobbied government in 1989 to introduce Bill 112 which would recognize American Sign language and la Langue des Signes Quebecois (LSQ) as languages-of instruction and heritage. The Bill would have incorporated ASL and LSQ in the-Education Act. Bill 112 was passed during first and second reading, only to be lost in the shuffle when a provincial general election was called. However, in Ontario, a Francophone and Anglophone advisory committee on Deaf education has been established with representatives from the Deaf and Hard of Hearing communities, parents groups, school boards, provincial schools, and interpreters. The committees advise the Minister of Education on the implementation of ASL and LSQ as languages of instruction. In July 1993 Ontario passed legislation recognizing and authorizing the use of ASL and LSQ as languages of instruction for Deaf students. The initiatives taken in Ontario are described in detail in Appendix C.

Gallaudet University, in the United States, is a successful working model of bilingualism and

multiculturalism based on ASL and English. Faculty at Gallaudet agreed that the use of English and ASL is essential in all aspects of academic life.

We recognize that ongoing dialogue will be necessary to resolve the issue of the preferred language of instruction in the classroom. We trust that the Ministry of Education will incorporate experts who are deaf in these considerations. It may be that this policy question ought to be put before the Action Council recommended in our Interim Report.

The Ombudsman recently held discussions with staff from the Ministry of Skills, Training, and Labour (formerly the Ministry of Advanced Education, Training and Technology) about the importance of recognizing ASL for post-secondary entrance requirements. We also discussed the importance of offering ASL training to broaden the communication between those who are deaf and those who are hearing. We were pleased with the response by Ministry staff that research supports the validity of ASL as a complete language. There are other jurisdictions in North America that have accepted ASL as a language for credit instruction and for post-secondary entrance. The Ministry of Skills, Training, and Labour agreed to conduct a survey and review of existing policies of British Columbia universities. The Ministry will make every effort to identify the requirements for training ASL instructors, and will take a lead role in pursuing the best options for wide distribution of learning resources.

#### **Recommendation #4**

The government of British Columbia should introduce legislation to acknowledge that American Sign Language (ASL) is the language of Deaf culture and that it be recognized as a complete language.

#### **Government's response to recommendation #4:**

Government is in process of conducting a complete review of legislation in regards to ASL prior to the implementation of policy. The Ministry of Education has informed the Ombudsman that it recognizes ASL as the language of Deaf culture and that residence staff have been advised of the Ministry's plan to implement policy which will recognize ASL as the primary language of communication in the residence. It is the Ministry's goal to have all residence staff fluent in ASL.

One frustration often expressed by people who are deaf, is the difficulty in gaining entry to public service positions. It must be recognized that fluency in ASL and knowledge and experience of Deaf culture, are legitimate assets to be considered when assessing the merits of an applicant for a position. This approach is consistent with a competency-based hiring practice.

## **Recommendation #5**

All public servants and contract service providers working directly with the Deaf community should be able to demonstrate their sign language skills and their knowledge of Deaf culture and be given appropriate recognition for having that skill. This would be consistent with a competency-based approach to hiring.

### **Government's response to recommendation #5:**

Ministry representatives have assured the Ombudsman that they are committed, in principle, to ensure accessibility to public services by the Deaf community. The Ombudsman has also been informed that Government does not believe it is feasible to require all public servants and contract services who work directly with the Deaf community to be able to communicate in ASL. Government has stated that where it is appropriate, ability to sign and to demonstrate knowledge of the Deaf culture will be required of employees. In addition, the Ministry of Education is considering standards for those working with Deaf children in public schools and at the Jericho residences.

The Ombudsman recognizes that recommendation #5 is a long term goal and will comment, as necessary, on government's progress in meeting the commitment to the principles expressed.

## **Recommendation #6**

The government should encourage the acceptance of ASL as a language for entrance requirements to post-secondary institutions and that ASL be taught as a credit course in public schools and post-secondary institutions.

### **Governments response to recommendation #6:**

The Ministry of Skill, Training and Labour has acknowledged that there are several precedents in other jurisdictions for the acceptance of ASL as a language for credit instruction and post-secondary entrance. The Ministry is currently reviewing these precedents.

The Ombudsman has been informed that Simon Fraser University, the University of Victoria, and the University of British Columbia currently require a second language

at the grade 11 level for entry. ASL is generally not accepted as a second language. Although admission policies are the mandate of individual institutions, the Ministry of Skills, Training and Labour will coordinate further review of institutional policies and is prepared to take a leadership role in seeking a resolution to this issue.

## • Informing and Supporting Families

There is conflicting information about how much information was provided to the parents concerning the abuse allegations. Former staff have informed us that there was continual disagreement between the Ministries of Education and Human Resources (now Social Services) as to what should be told, given that the investigation was not completed. We have concluded that some parents were not fully informed that their children had disclosed that they were abused and others were not fully informed or provided with the full details of their children's disclosures.

The United Nations Convention on the Rights of the Child affirms our belief that the state has a role to play to support parents and families. Article 18.2 identifies our obligation to provide support:

*For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performances of their child-rearing responsibilities and shall ensure the development of institutions, facilities, and services for the care of children.*

We have talked to parents of Deaf children who told us that they could not communicate with their children. When parents and children cannot communicate with each other, we cannot expect the parents to feel adequate about fulfilling that fundamental duty of safeguarding their children's right to be safe, protecting them from harm. Parents are natural advocates for their children. The lack of communication makes it difficult to fulfil this role. If children can communicate effectively with those they love and trust, they can report abuse and rely upon their parents as advocates.

### **Recommendation #7:**

Government should make available publicly-funded ASL Instruction services, accessible throughout the province, for parents and families of Deaf children. These services could be incorporated into post-secondary programs and available for the community at large.

### **Government's response to recommendation #7:**

Government has informed the Ombudsman that appropriately qualified ASL instructors are critical to the feasibility of both recommendations #6 and #7. To address this concern, a needs analysis related to ASL instructor training is underway and response to the result of the analysis will be a priority. In addition, a draft framework for the development and implementation of standardized ASL instruction at all levels throughout British Columbia has recently been developed. Government has stated that \$45,000 has been allocated for development and piloting of the framework. It is expected that basic levels will continue to be offered on a cost recovery basis. Consideration will be given to instruction through videos, the Open Learning Institute, and other visual means. Further government response to recommendation #7 will depend on resource availability.

## • Privacy and Information

Students who disclosed abuse in 1982 and 1987 are now adults and are entitled to privacy. We respect the rights of those who have chosen not to tell their families about the abuse they suffered. Should former students decide that they want their parents to be privy to the details of their disclosures, these young people can request that the information be provided to their parents if they are not able to provide it themselves. Freedom of Information legislation may assist some individuals gain access to government files. The Deaf Access Office for Jericho Hill Response, established in June 1993, will endeavour to assist in obtaining personal records as requested by former students.

## • Counselling

Many family members of the students who disclosed abuse have also suffered as a result of the abuse. The children were not provided with appropriate counselling to deal with their abuse. Families were not provided with support or counselling. We have seen copies of a letter sent to some parents of the children interviewed in 1982 to offer services, but the letters did not indicate the nature or severity of abuse. There is often considerable stress in not knowing.

A District Supervisor in the local MHR office sent a memo in August 1983 to the Assistant Deputy Minister saying it was not clear whether parents knew the results of the interviews of their children. Some families have experienced tremendous guilt and anger because they did not take active steps to intervene when they were advised of allegations of abuse in the residence or when their children made it clear that they did not want to return. Some families did not know what their children were saying and sent their children back to the residence. These parents reported to us that they believe their adult children are now estranged from them as a result of their failure to protect their children. We believe government has a responsibility to the families of the students who disclosed in 1982 and the students who were identified as victims of abuse in 1982.

The Wellbeing Program, funded by the Ministry of Health, has provided services upon request to the Deaf community. Government has announced that the Wellbeing Program will expand its outreach and operate a mental health service for the Deaf, focusing on counselling for Deaf children and school mental health services for the families and children attending Jericho Hill School. The Ombudsman has spoken with individuals who have been highly satisfied with the support and counselling services received through the Wellbeing Program. We acknowledge the work being done by the Wellbeing Program and support any initiative by government to enable the Wellbeing Program to extend its outreach to other communities.

### **Recommendation #8:**

Government should provide counselling services, as requested by families of students who disclosed abuse or who are identified as victims of abuse in 1982 through a program that is sensitive, appropriate, and respects choice.

### **Government's response to recommendation #8:**

Government is currently providing services to former Jericho Hill students and their families through the Ministry of Health. The Wellbeing Program has a full time coordinator to arrange for the specialized therapeutic needs of the Deaf community. The Ministry of Social Services is considering an initiative to provide more choice to families through their family support services, which does not have the same criteria as the Ministry of Health when providing specialized services.

### **Recommendation #9:**

Every current and future student in the residences should be offered sexual abuse prevention programs and every student should be given information about preventing peer abuse.

### **Government's response to recommendation #9:**

Government agrees. Sexual abuse prevention programs are now offered to all Deaf students at Jericho Hill School whether or not they are residential students, but subject to parental approval. The Ministry of Education is currently redesigning residential programs and policies to address issues of potential abuse. The Ombudsman will review these redesigned programs and policies.

## • Student Interviews

Much criticism has been directed toward the original 1982 interviews by the psychologist employed by the City of Vancouver Health Department and the MHR liaison social worker, alleging that the psychologist posed leading questions. In reading the transcripts of these interviews and the transcripts from the interviews conducted by the subsequent school psychologist, it is interesting to note that he, too, posed leading questions. The primary difference between the two is that the school psychologist posed negatively leading questions, such as "It never happened to you?" The 1982 psychologists questions were positively leading, such as "Did [staff person] force you?" We found no evidence that anyone criticized the interview style of the subsequent psychologist or suggested that he was attempting to influence the evidence or the outcome of the interview.

Regardless of whether or not the questions were leading one way or the other, the information provided by students should have been considered of such a nature as to cause significant concern for their safety and well-being. It is difficult to understand how these disclosures could have so easily been dismissed by so many.

## • Litigation and Compensation

Former students who were abused at Jericho Hill School are faced with civil litigation as their avenue to seek compensation for the consequences of their abuse. We do not believe that it is fair or reasonable that children who were abused in a provincially funded and administered institution should have to pursue compensation through the courts. The cost and trauma associated with the judicial process could easily re-victimize the victim.

The Ministry of Attorney General has retained former Supreme Court Justice, Mr. Thomas Berger, Q.C., as Special Counsel to the Attorney General. It is hoped that recommendation #10 will be part of the resolution process he recommends.

### **Recommendation #10:**

Government should take Immediate steps to issue a clear commitment to non-confrontational alternative means of determining compensation to those who alleged abuse while residing at Jericho Hill School for the Deaf and enter into negotiations with the victims of abuse to determine an appropriate settlement of compensation.

## **Government's response to recommendation #10:**

Government has appointed Mr. Berger as Special Counsel to the Attorney General. This appointment is unprecedented in British Columbia's history. Mr. Berger is to provide an overview of civil liability potential and to formulate recommendations to the Attorney General regarding appropriate resolutions to the range of complaints. Government has stated that the appointment of Mr. Berger is intended to be a first step in examining and hopefully establishing another process of dealing with these claims and providing an appropriate government response.

The Ombudsman is hopeful that the process recommended by Mr. Berger to resolve outstanding claims will not be limited to those who already have civil litigation options, those who have filed police reports, or those who accessed the services provided by the Jericho Hill Intervention Project. The Ombudsman believes it is the responsibility of government to ensure all those who alleged abuse have the opportunity to benefit from any process developed by Mr. Berger.

## **• Abuse Did Occur**

Based on our review of events, there can be no doubt that abuse did occur. It is time to acknowledge that abuse happened so that healing can begin.

## **Recommendation #11:**

That the government publicly acknowledge abuse occurred at Jericho Hill school In a forum and manner it considers fit.

## **Government's response to recommendation #11:**

Government has responded to recommendation #11 by referring to the appointment of Mr. Berger.

The Ombudsman does not accept that the appointment of Mr. Berger meets the recommendation. The appointment of Mr. Berger does not acknowledge abuse occurred. It is the understanding of the Ombudsman that Mr. Berger Will report to the Attorney General who will report to the Cabinet. This is not a public process and does not address the intent of

recommendation #11. The Ombudsman repeats that the findings of her investigation affirm that abuse happened and that it is time for that to be acknowledged.

## • Summary of Ombudsman's Recommendations

1. The residential program at Jericho Hill School should be transferred to an authority that has expertise in residential services to children. The Ministry of Education should oversee this process. Services should be delivered in partnership with their consumers and administered with integrated residential standards. In the new model, accountability to the public and the Ombudsman's office is also necessary and must be ensured.
2. A province wide protocol for Crown Counsel and Police should be developed to guide the process when dealing with abuse victims and witnesses with unique communications needs. [See Appendix.]
3. Government should contact students who disclosed abuse in 1982 and students who were identified as victims of abuse in 1982 to offer appropriate compensation and an apology.
4. The government of British Columbia should introduce legislation to acknowledge that American Sign Language (ASL) is the language of Deaf culture and that it be recognized as a complete language.
5. All public servants and contract service providers working directly with the Deaf community should be able to demonstrate their sign language skills and their knowledge of Deaf culture and be given appropriate recognition for having that skill. This would be consistent with a competency-based approach to hiring.
6. The government should encourage the acceptance of ASL as a language for entrance requirements to post-secondary institutions and that ASL be taught as a credit course in public schools and post-secondary institutions.
7. Government should make available publicly-funded ASL instruction services, accessible throughout the province, for parents and families of Deaf children. These services could be incorporated into post-secondary programs and available for the community at large.

8. Government should provide counselling services, as requested, by families of students who disclosed abuse or who are Identified as victims of abuse In 1982 through a program that is sensitive, appropriate, and respects choice.
9. Every current and future student in the residences should be offered sexual abuse prevention programs and every student should be given Information about preventing peer abuse.
10. Government should take. Immediate steps to issue a clear commitment to non-confrontational alternative means of determining compensation to those who alleged abuse while residing at Jericho Hill School for the Deaf and enter into negotiations with the victims of abuse to determine an appropriate settlement of compensation.
11. That the government publicly acknowledge abuse occurred at Jericho Hill school in a forum and manner it considers fit.

## APPENDIX A

# PROTOCOL FOR JERICHO HILL INTERVENTION

### PROTOCOL FOR JERICHO HILL INTERVENTION

This Protocol governs the activities of the Protocol Committee and the intervention Teams in responding to allegations of abuse and neglect from present and former students of Jericho Hill School.

This document supplements the protocol for multi-victim and high impact cases in the Inter-Ministry Handbook. It is intended to reflect the spirit of the Handbook, while providing specific details applicable to this intervention\*

This protocol represents the goals of the Protocol Committee and the Intervention Teams. We recognize that contingencies may preclude us from achieving every goal in each intervention. However., by approving this protocol each agency formalizes its commitment to extend every effort

to achieve these goals using our combined resources.

Finally, this is a living document which we will continue to assess and, where possible improve as we pursue the intervention.

## 1. PROTOCOL-COMMITTEE

1.1 A Protocol Committee will be formed, including designated members from Vancouver City Police and the Ministries of Social Services, Health, Education, and Attorney General. All members of the Protocol Committee will be knowledgeable in dealing with child witnesses, the deaf, and the dynamics of multi-victim institutional abuse of deaf persons\*

1.2 The Protocol Committee will be chaired by the member from MSS.

1.3 The Protocol Committee will designate the following individuals to assist the Intervention Teams:

a) physicians;

b) therapists qualified in assessing the emotional, psychological and communication requirements of deaf complainants/witnesses;

c) interpreters; and

d) the consultant on interpreting issues (consultant).

1.4 The consultant will also be retained to advise the Protocol Committee generally.

1.5 The interpreters will be selected on the following basis:

a) preference for interpreters with Canadian Interpreting Certification;

b) at least one deaf interpreter; and

c) the consultant will screen all interpreters prior to their designation.

1.6 The consultant will conduct periodic reviews of the designated interpreters, performance and make appropriate recommendations to the Protocol Committee.

1.7 A twenty-four hour accessible helpline for deaf adults and children will be established under the direction of the Protocol Committee.

1.8 The chairperson or designate of the Protocol Committee will liaise with the deaf community, the media and the general public for the following purposes:

- a) to assist the Protocol Committee in maintaining sensitivity concerning the effect the disclosures and intervention will have on the deaf community;
- b) to provide ongoing consultation with the deaf community to ensure that the intervention addresses the deaf community's long term needs;
- c) to maintain the good reputation of the deaf community and avoid - unnecessary stigmatization of its members;
- d) to provide information regarding access to the Intervention Teams; and
- e) to provide information concerning therapy and support services for the complainants/witnesses and their families, the deaf community And the staff involved in the intervention.

In providing this information, the chairperson or designate will maintain the confidentiality of the complainants/witnesses, suspects, and interpreters.

1.9 Support services will be made available for the complainants/witnesses and their families, the deaf community and the staff involved in the intervention. The services to members of the deaf community will be accessible and culturally sensitive.

1.10 It is a primary responsibility of the Protocol Committee to evaluate specific case strategies as brought forward by the Intervention Teams in accordance with this protocol.

1.11 While Crown Counsel are not members of the Intervention Teams, the Crown Counsel representative on the Protocol Committee will be available to provide advice to the Intervention Teams as required.

## 2. PRE-INTERVENTION REQUIREMENTS

2.1 The Protocol Committee will select the members of the Intervention Teams. The Team will be knowledgeable in issues relating to child witnesses, the deaf and multi-victim institutional abuse. A minimum requirement is that each member view the videos and read the materials supplied at the intervention workshop.

2.2 Each Intervention Team will:

- a) comply with this protocol;
- b) assign roles too and clarify the responsibilities of, each of its members, including a Ministry social worker who as case manager will provide the fixed point of responsibility for each file;
- c) regularly inform the Protocol Committee of its progress;
- d) be aware of the impact that the Intervention will have on a potential prosecution;
- e) use interpreters or deaf persons for-all interviews of deaf complainants or witnesses; and
- f) communicate promptly with the complainant.

2.3 The Intervention Teams will, in consultation with a therapist and the consultant, conduct an initial assessment of the complainant/witness to determine the following:

- a) the therapy, support and financial requirements of the complainant/witness and her or his family;
- b) the complainant/witness' preferred interpreters or preferred means of communication;
- c) whether a support person's presence is desired at the interview;
- d) the name, address and telephone number of a primary contact person;
- e) the complainant/witness, views concerning a video and audio taped statement; and
- f) the complainant/witness, requirements for a safe and neutral location for interviews, with adequate facilities and special equipment.

2.4 During the initial assessment, therapy and support will be offered and where requested, the Intervention Teams will make appropriate arrangements for services, including financial support. In making arrangements for services, preference will be given to the complainant/witness' choice of therapist, and if necessary interpreter needed to provide the service. Additionally, there will be review and follow-up to ensure that the complainant/witness remains satisfied with the therapy and interpreter.

2.5 The function of a primary contact person is to facilitate communication between the complainant and the Intervention Teams. The primary contact person may be the complainant/witness, support person or any other person chosen by the complainant.

2.6 The intervention Teams will ensure:

- a) a safe and neutral location is made available for interviews and that there are adequate facilities and special equipment;
- b) the presence of interpreters or a deaf interviewer and support person; 'and
- c) appropriate physical and emotional support and protection of the complainant and the interpreters throughout the intervention.

2.7 Intervention Teams will be aware of the possibility that a complainant may also be an alleged offender and the Intervention Teams will take care that evidence is not contaminated and that an alleged offender's rights are not infringed. in dealing with alleged offender the Intervention Teams will follow the guidelines developed for dealing with deaf suspects.

### 3. THE INTERVENTION DISCLOSURES

3.1 In deciding who will conduct the interview, the Intervention Teams will give primary consideration to obtaining a complete and accurate disclosure. The secondary consideration is to keep the number of interviews to a minimum.

3.2 Where more than one Ministry or Agency is involved in the intervention, joint interviews will be conducted where appropriate and, where possible, the same interpreters will be used throughout the intervention.

3.3 With the consent of the complainant/witness, all interviews of persons who are deaf will be video-taped and audio-taped. The video-tape will include close-ups of the complainant or witness to allow a clear view of facial expression and upper body movement. The video-tape will include the taping of both the interpreters) or deaf interviewer and the complainant/witness signing.

3.4 A written log of critical points will accompany the video and audio-tapes.

3.3 At an early stager attempts will be made to obtain relevant medical and other documentary evidence such as school records.

3.6 The Intervention Teams will make every effort to obtain demonstrative evidence to facilitate communication of a deaf person's evidence (i.e., photographs of the room in which the alleged

offence occurred or a school year book containing photographs of the alleged offender and other witnesses).

3.7 The police will retain custody of the video and audio-tapes and all other documentation and evidence.

3.8 Where there are allegations of recent physical or sexual abuse a physician (and interpreter if hearing doctor or doctor who does not sign) designated by the Protocol Committee will where appropriate:

a) with the consent of the complainant examine the complainant for physical evidence of abuse; and

b) prepare and submit to the Intervention Teams a written expert opinion for evidentiary purposes.

3.9 The Intervention Teams, with legal advice, will develop guidelines for ensuring that all deaf suspects are dealt with in a culturally sensitive manner, ensuring that they are fully advised of their rights under the Charter of Rights and Freedoms, and have appropriate access to counsel and interpreters.

#### 4. PROSECUTION

4.1 Crown Victim Witness Services will have among its resources a deaf person to assist the complainant, witness and family.

4.2 At the earliest opportunity Crown Counsel assigned will determine whether criminal charges are appropriate in accordance with Criminal Justice Branch policy. This assignment will be considered as Crown Counsel's first priority. Where possible, Crown Counsel will carry the conduct of this case through to its conclusion.

4.3 The Crown Counsel assigned to the case will be trained in the dynamics of, at least, child witnesses, the deaf and multi-victim institutional abuse.

4.4 As soon as a decision has been reached regarding prosecution Crown Counsel will inform the Protocol Committee, the Intervention Teams, the complainant and the primary contact person of that decision. If the decision is to not proceed with charges, reasons will be given. The decision and reasons will be documented 'on the file. The complainant will be notified of the process for reviewing Crown Counsel's decision where the decision is not to proceed. All reasons for Crown Counsel decisions will be given in person (with interpreter if required).

4-5 Unless inappropriate, Crown Counsel will make applications pursuant to section 486 of the

Criminal Code of Canada for the exclusion of the public from the courtroom and for the non-publication of information which could identify the complainant or any witness. Unless inappropriate, Crown Counsel will also make application to use facilities -such as screens or closed circuit television. It is important for counsel to remember that in order to protect the identity of the complainant in many instances, it will also be necessary to avoid identification of the interpreter as persons in the deaf community will be able to identify the complainant through the interpreter.

4.6 Crown Counsel will consider the direct indictment provisions of the Criminal Code in each case in accordance with existing Criminal Justice Branch policy on the use of Direct Indictments.

4.7 Crown Counsel will confer with the consultant, Court Services and the judiciary where necessary to ensure the courtroom setting is appropriate for deaf persons (i.e., lighting, seating, breaks, etc.).

4.8 Throughout the prosecution of a case Crown Counsel will ensure the complainant, any deaf witnesses and the interpreters are provided support, including therapeutic, where required.

4.9 During the prosecution of a case:

a) the Court interpreters will be different from those used throughout the intervention;

b) the court interpreters will meet in advance with the consultant, the relevant deaf witnesses, the intervention interpreter, and/or the deaf accused and their counsel to ensure the interpretation needs of the Court are met; and

c) the court interpreter will be apprised of adequate information regarding the case to enable accurate interpretation to be given. This information will include details as to the signs the complainant/witness uses to identify people, sex acts and body parts. This will be done in consultation with counsel for the accused, and under the direction of the Court.

## 5. THERAPY--AND SUPPORT

Mental Health Services for deaf individuals who are victims of child sexual abuse will include the same services provided for other victims of sexual abuse, as described in the Child Abuse Handbook.

These services include assessment, treatment and consultation. If a child or family appears to be in crisis, a referral may be made for assistance in managing the crisis.

The person making the referral will provide information concerning the individual's emotional and

behavioural adjustment as well as information about possible abuse.

Treatment may involve individual sessions with the child or parents, family sessions, or group sessions for the child or parents.

In the course of offering services, mental health professionals may become aware of situations involving child abuse or neglect. A mental health professional who has reason to believe that a child is in need of protection must report it to the Ministry of Social Services and the Vancouver Police Department.

Where the disclosure of information is necessary to protect the child/client, the practitioner should provide the information to those responsible for the investigation.

5.1 Selecting agencies and practitioners to provide therapeutic services to Deaf individuals who are victims of sexual abuse.

- a) The Protocol Committee will use the guidelines developed by the Ministry of Health for the Sexual Abuse Interventions Program (SAIP). A summary of the guidelines is attached to this Protocol as Appendix 1.
- b) A list of qualified deaf and hearing therapists and agencies will be prepared by the Committee, on the advice of the Ministry of Health and in consultation with the Deaf community.
- c) Therapists must meet the SAIP guidelines in order to participate in the planned interventions; and
- d) Therapists must be knowledgeable about Deaf abused children and sexual abuse in institutional settings (i.e., as demonstrated by participation in the Access to Justice Workshop or equivalent experience).

5.2 Preference will be given to the clients' choice of therapists, if qualified (see above). In consultation with the designated therapists, preference will also be given to the clients' choice of interpreter(s). Review and follow-up will be done with respect to counselling services to ensure that clients remain satisfied with the therapy and interpreters.

5.3 In consultation with therapists and in contracting with them, the importance of sensitivity to special needs of Deaf clients will be stressed. Such special needs may include, for example, the presence of a support person and good lighting and background for the interpreter.

5.4 The Intervention Teams will ensure that the therapy, support and financial requirements of the

complainant/witness and his or her family will be available on an ongoing basis as required.

5.5 The resources required to provide the appropriate therapy and support including financial assistance will be made available immediately.

5.6 Persons requiring therapy in remote and isolated communities will be given special consideration to ensure that an appropriate level of service is either provided to them in their community or costs of their attendance to the community where the service is available will be covered.

## APPENDIX B

### SUMMARY OF OMBUDSMAN RECOMMENDATIONS and GOVERNMENT'S RESPONSE TO DATE

#### **Recommendation #1:**

The residential program at Jericho Hill School should be transferred to an authority that has expertise in residential services to children. The Ministry of Education should oversee this process. Services should be delivered in partnership with their consumers and administered with integrated residential standards. In the new model, accountability to the public and the Ombudsman's Office is also necessary and must be ensured.

#### **Government's response to recommendation #1:**

The Ministry of Education recently received the completed independent assessment of the Jericho Hill residence. Government has stated that the issue of the most appropriate employer model for the Jericho residence is under active examination. A decision will be forthcoming as to which ministry should manage and/or oversee the resource or whether the residence should be managed by an independent agency. Government has assured the Ombudsman that it is and will continue to be accountable to the public for the residential services it provides.

The Ombudsman is aware that the current residence has not been a licensed facility. The Ombudsman assumes that new residences will be licensed in accordance with the *Community Care Facilities Licensing Act*.

Government has responded to our comments about licensing of the residential program by advising that the *Community Care Facilities Licensing Act* does not currently include facilities such as the Jericho Hill Residence under its purview. The Ombudsman suggests the Act provides sufficient discretion to include facilities such as the residence under its legislation. We raised this issue in November 1990 in the Ombudsman's Public Report No. 22. The Ombudsman recommended a review of existing legislation to develop "a comprehensive licensing or certification mechanism to be uniformly applied, monitored and enforced across all ministries which fund contracted residential child and youth care resources or facilities".

### **Recommendation #2:**

A province wide protocol for Crown Counsel and Police should be developed to guide the process when dealing with abuse victims and witnesses with unique communications needs. [See Appendix A]

### **Government's response to recommendation #2:**

A detailed protocol was developed in consultation with the Deaf community for use by the Jericho Hill Intervention Project Team. [See Appendix A]. Crown Counsel has developed a prototype format and Charter of Rights warnings to assist police and to ensure that Deaf suspects are properly informed of their rights. The Ombudsman expects that the Ministry of Attorney General will ensure that appropriate protocols are in place in each police jurisdiction in British Columbia to ensure fair treatment of accused and abuse victims who are deaf. The protocol should also be included in the Inter Ministry Child Abuse Handbook. The Ministry of Attorney General has agreed with this recommendation and informed the Ombudsman that it will facilitate a review of the current document as provided in Appendix A.

### **Recommendation #3:**

Government should contact students who disclosed abuse in 1982 and students who were identified as victims of abuse In 1982 to offer appropriate compensation and an apology.

### **Government's response to recommendation #3:**

Government has informed the Ombudsman that all people who were interviewed by the

Jericho Hill Intervention Project will be contacted and provided with information about Crown Counsel decisions and how to access Mr. Berger.

The Ombudsman acknowledges this effort, but stands by the intent of recommendation #3. All students who disclosed abuse in 1982 and who were identified as victims of abuse in 1982 have not come forward to the Jericho Hill Intervention Project. The Ombudsman believes these students are entitled to be informed of the current process available to them as well as an offer of appropriate compensation and an apology.

#### **Recommendation #4**

The government of British Columbia should introduce legislation to acknowledge that American Sign Language (ASL) is the language of Deaf culture and that it be recognized as a complete language.

#### **Government's response to recommendation #4:**

Government is in process of conducting a complete review of legislation in regards to ASL prior to the implementation of policy. The Ministry of Education has informed the Ombudsman that it recognizes ASL as the language of Deaf culture and that residence staff have been advised of the Ministry's plan to implement policy which will recognize ASL as the primary language of communication in the residence. It is the Ministry's goal to have all residence staff fluent in ASL.

One frustration often expressed by people who are deaf, is the difficulty in gaining entry to public service positions. It must be recognized that fluency in ASL and knowledge and experience of Deaf culture, are legitimate assets to be considered when assessing the merits of an applicant for a position. This approach is consistent with a competency based hiring practice.

#### **Recommendation #6**

All public servants and contract service providers working directly with the Deaf community should be able to demonstrate their sign language skills and their knowledge of Deaf culture and be given appropriate recognition for having that skill. This would be consistent with a competency-based approach to hiring.

#### **Government's response to recommendation #5:**

Ministry representatives have assured the Ombudsman that they are committed, in principle, to ensure accessibility to public services by the Deaf community. The Ombudsman has also been informed that Government does not believe it is feasible to require all public servants

and contract services who work directly with the Deaf community to be able to communicate in ASL. Government has stated that where it is appropriate, ability to sign and to demonstrate knowledge of the Deaf culture will be required of employees. In addition, the Ministry of Education is considering standards for those working with Deaf children in public schools and at the Jericho residences.

The Ombudsman recognizes that recommendation #5 is a long term goal and will comment, as necessary, on governments progress in meeting the commitment to the principles expressed.

### **Recommendation #6**

The government should encourage the acceptance of ASL as a language for entrance requirements to post-secondary institutions and that ASL be taught as a credit course in public schools and post-secondary institutions.

### **Government's response to recommendation #6:**

The Ministry of Skill, Training and Labour has acknowledged that there are several precedents in other jurisdictions for the acceptance of ASL as a language for credit instruction and post-secondary entrance. The Ministry is currently reviewing these precedents.

The Ombudsman has been informed that Simon Fraser University, the University of Victoria, and the University of British Columbia currently require a second language at the grade 11 level for entry. ASL is generally not accepted as a second language. Although admission policies are the mandate of individual institutions, the Ministry of Skills, Training and Labour will coordinate further review of institutional policies and is prepared to take a leadership role in seeking a resolution to this issue.

### **Recommendation #7:**

Government should make available publicly-funded ASL Instruction services, accessible throughout the province, for parents and families of Deaf children. These services could be incorporated into post-secondary programs and available for the community at large.

### **Government's response to recommendation #7:**

Government has informed the Ombudsman that appropriately qualified ASL instructors are critical to the feasibility of both recommendations #6 and #7. To address this concern, a needs analysis related to ASL instructor training is underway and response to the result of the analysis will be a priority. In addition, a draft framework for the development and

implementation of standardized ASL instruction at all levels throughout

British Columbia has recently been developed. Government has stated that \$45,000 has been allocated for development and piloting of the framework. It is expected that basic levels will continue to be offered on a cost recovery basis. Consideration will be given to instruction through videos, the Open Learning Institute, and other visual means. Further government response to recommendation #7 will depend on resource availability.

**Recommendation #8:**

Government should provide counselling services, as requested by families of students who disclosed abuse or who are identified as victims of abuse In 1982 through a program that is sensitive, appropriate, and respects choice.

**Government's response to recommendation #8:**

Government is currently providing services to former Jericho Hill students and their families through the Ministry of Health. The Wellbeing Program has a full time coordinator to arrange for the specialized therapeutic needs of the Deaf community. The Ministry of Social Services is considering an initiative to provide more choice to families through their family support services, which does not have the same criteria as the Ministry of Health when providing specialized services.

**Recommendation #9:**

Every current and future student In the residences should be offered sexual abuse prevention programs and every student should be given Information about preventing peer abuse.

**Government's response to recommendation #9:**

Government agrees. Sexual abuse prevention programs are now offered to all Deaf students at Jericho Hill School whether or not they are residential students, but subject to parental approval. The Ministry of Education is currently redesigning residential programs and policies to address issues of potential abuse. The Ombudsman will review these redesigned programs and policies.

**Recommendation #10:**

Government should take immediate steps to issue a clear commitment to non-confrontational alternative means of determining compensation to those who alleged abuse while residing at Jericho Hill School for the Deaf and enter into negotiations with the victims of abuse to determine an appropriate settlement of compensation.

### **Government's response to recommendation #10:**

Government has appointed Mr. Berger as Special Counsel to the Attorney General. This appointment is unprecedented in British Columbia's history. Mr. Berger is to provide an overview of civil liability potential and to formulate recommendations to the Attorney General regarding appropriate resolutions to the range of complaints. Government has stated that the appointment of Mr. Berger is intended to be a first step in examining and hopefully establishing another process of dealing with these claims and providing an appropriate government response.

The Ombudsman is hopeful that the process recommended by Mr. Berger to resolve outstanding claims will not be limited to those who already have civil litigation options, those who have filed police reports, or those who accessed the services provided by the Jericho Hill Intervention Project. The Ombudsman believes it is the responsibility of government to ensure all those who alleged abuse have the opportunity to benefit from any process developed by Mr. Berger.

### **Recommendation #11:**

That the government publicly acknowledge abuse occurred at Jericho Hill school in a forum and manner it considers fit.

### **Government's response to recommendation #11:**

Government has responded to recommendation #11 by referring to the appointment of Mr. Berger.

The Ombudsman does not accept that the appointment of Mr. Berger meets the recommendation. The appointment of Mr. Berger does not acknowledge abuse occurred. It is the understanding of the Ombudsman that Mr. Berger will report to the Attorney General who will report to the Cabinet. This is not a public process and does not address the intent of recommendation #11. The Ombudsman repeats that the findings of her investigation affirm that abuse happened and that it is time for that to be acknowledged.

## **APPENDIX C**

# ONTARIO'S NEW ASL/LSQ LAW - PAH!

A cultural note of explanation:

"PAH" is the sound made by Deaf people  
when making the sign for a significant success.

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## NEWS RELEASE

# Ontario's New ASL/LSQ Law - PAH!

by

Dr. Clifton F. Carbin

A definitive step toward the empowerment of Deaf people in one of Canada's provinces was taken on July 21, 1993. The Ontario Ministry of Education and Training announced the passage of Bill 4 (Sec. 11), provincial legislation that recognizes and authorizes the use of American Sign Language (ASL) and Langue des Signes Quebecois (LSQ) as languages of instruction for deaf students. Eight days later, this proposed statute received Royal Assent and became the law of the province of Ontario. This is the first time a province or state has enacted such a law. (It should be noted that, in 1988, Manitoba became the first Canadian province to recognize ASL as a heritage language of the Deaf community (Resolution No. 35). followed by Alberta in 1990 (whose resolution also recognized ASL as a language of instruction -- Motion No. 216). However, these were merely resolutions or formal expressions (not laws) assented to by their respective governments. According to Dr. Yarker Andersson (president, of the World Federation of the Deaf), Sweden was the first country (in 1981) to declare Swedish Sign Language (SSL) as the first language of Deaf people; in effect, all of its schools for deaf students are required to use SSL in the classroom. In the United States, some state governments have accepted ASL as the first or natural language of Deaf people,

but not as a language of instruction.).

The Honourable Education Minister Dave Cooke proudly noted that Ontario is the first jurisdiction in North America to recognize ASL and LSQ as official languages of instructions. Until the passage of this Bill, the only languages of instruction permitted in the classroom under Ontario's Education Act were spoken English and French.

The organized movement that culminated in the passage of Bill 4 began in 1988 and was inspired by the efforts of deaf students in Washington, D.C., whose "Deaf President Now" (DPN) protest effectively shut down Gallaudet University for a week (March 6-13) and captured the attention of the world. In May of that year, members of the Ontario Association of the Deaf (OAD) submitted a brief to the provincial government that emphasized that "deaf people were seeking the right to exist as a full and distinct culture ...." As a result, three task forces were established to study and report on the province's educational systems as they applied to deaf and hard of hearing students.

A year later, an estimated 1,000 deaf Canadians gathered in Toronto for a "Deaf Ontario Now\*" (DON) rally, and thousands more participated in what was known as the "Deaf Education Movement" across Canada. Deaf Canadians attending Gallaudet University marched to the Canadian Embassy in Washington, D.C. in support of the movement occurring in their home country.

On December 14, 1989, fifty deaf protesters, mostly members of the OAD, took over the Ontario Minister of Education's office in Toronto. They refused to leave until a written promise was given that the *Review of Ontario Education Programs for Deaf and Hard of Hearing Students* -- which was more than a year overdue -- finally would be released. Two months later, deaf protesters at the Robarts School in London, one of the three provincial schools for deaf students in Ontario, demanded that more deaf teachers be hired and that ASL be used as a language of instruction.

In September 1990, the Ontario voters elected their first deaf Member of Provincial Parliament (MPP) for Toronto's York East riding (voting district), Gary Malkowski whose focus included human rights and disability issues. In the spring of 1993, Malkowski was appointed Parliamentary Assistant to the Minister of Education and Training, bringing him even closer to the heart of issues related to the education of deaf people. Working closely with the Deaf community and with hearing advocates for deaf people, Malkowski and other members of the Ontario Provincial Parliament moved legislation through the cumbersome-process that involves three successful readings (votes) on a bill before it can become law. The first bill to recognize ASL and LSQ as heritage languages of the Deaf community and languages of instruction (Bill 112) made it through the second reading before the September 1990 general elections in the province led to a change in the ruling political party. The elections meant that the entire process had to begin again, with the introduction of Bill 4.

Given its first reading on April 21, 1993, Bill 4 introduced measures that would allow school boards, the French-language section of school boards, and provincial schools to use ASL and LSQ

as languages of instruction for deaf students. Malkowski himself introduced Bill 4 for its second reading (May 3rd), pointing out that the *Review of Ontario Education Programs* (1989) recommended the use of ASL and LSQ to make education more accessible to deaf students. With the successful third reading (July 21st) and Royal Assent (July 29th), this new provincial law was amended to Ontario's Education Act.

In cooperation with the OAD, the Ontario Deaf community's active support of its educational goals has produced noticeable and positive results. A few of their significant PAHS! are mentioned below:

PAH #1: - Before the DON movement began in May 1988, the Ontario Ministry of Education and Training had eight deaf teachers and no deaf administrators employed at Ks provincial schools for deaf students in Belleville, Milton, and London. By June 1993, twenty-nine deaf teachers and five deaf administrators (one bilingual/bicultural program director, one resource services program director, one elementary vice-principal, one secondary vice-principal, and one residence manager) have been assigned. Four new deaf teachers will be added to the Ministry's roster in September 1993.

PAH #2: A provincial advisory committee to the Minister of Education was established in November 1990 by Marion Boyd, the Education Minister at that time. It includes deaf members, as well as advocates for deaf people, and parents of deaf children.

PAH #3: The Ontario Ministry of Colleges and Universities established a teacher of the deaf training program at Toronto's York University in September 1991. The previous program, which had been located at the school for the deaf in Belleville for 72 years (1919-1991), was discontinued. York University hired Dr. David G. Mason (who incidentally became Canada's first deaf university professor) to coordinate the new "bilingual/bicultural" program for teachers-in-training.

PAH #4: In November 1991, the Ontario Ministry of Education and Training hired its first deaf administrator (the writer of this article) in the capacity of bilingual/bicultural program director. Eighteen months later in May 1993, a policy statement on bilingual/bicultural education for deaf students at its three provincial schools was ratified by their superintendents, principals, vice-principals, and program directors.

All of the above PAHS! were included in the OAD's 1989 Education Task Force statement of Ks visions of deaf education in the province. More PAHS! are expected in the coming months under the dynamic leadership of OAD's President David Keri, and his *SuperCommittee* consisting of a maximum of fifty deaf and hearing members (parents, professionals, and community leaders).

Deaf Ontarians are to be congratulated on these accomplishments and especially on their passage of Bill 4, an historic and precedent-setting decision that recognizes the languages and culture of Ks deaf citizens. It is anticipated that other Canadian provinces (and our neighbours south of the border) will follow Ontario's shining example.

July 31, 1993