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Prosecutor: Boot camp won't face charges

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Kansas City Star

October 2, 2005

KIDDER, Mo. — Eleven months after the death of a 15-year-old resident of a home for troubled teens, the local prosecutor said he doesn't expect to file criminal charges.

Yet questions persist about the death of Roberto Reyes and previous unrelated allegations of child abuse at Thayer Learning Center.

Caldwell County Prosecutor Jason Kanoy said he's not convinced any criminal abuse or neglect was involved in the death of Roberto, a Californian who had been at the northwest Missouri military-type boarding school for less than two weeks. His death was attributed to a spider bite.

"The question boils down to: 'Did somebody commit a crime to cause his death?' … As of right now, I just haven't seen that sticking out like a sore thumb," said Kanoy, who admits his investigation was hampered by lack of access to the private facility.

In a response to a wrongful death lawsuit filed by Roberto's parents, Thayer's owners, John and Willa Bundy, denied wrongdoing. In a statement submitted to *The Kansas City Star* shortly after Roberto's death, Thayer officials said general allegations of abuse were "ludicrous and false."

The Bundys, who opened Thayer in mid-2002, have not responded to several recent interview requests. But an attorney for Thayer, Rhonda Smiley, said in a Sept. 22 letter faxed to *The Star* that "Thayer chooses to try the facts of this lawsuit in the appropriate forum, not in the newspaper." She called the allegations unsubstantiated.

Despite Kanoy's reluctance to file charges, he said it "sounds like there's (civil) negligence all over the place" in Roberto's case.

A five-month investigation by *The Star* found that:

■ According to a state investigative report, a former Thayer student said that Roberto had been "almost lifeless" for several days before his death. Two former students told *The Star* that Roberto had barely moved when they saw him in the days before he died. And a business owner who installed surveillance equipment at Thayer told *The Star* that Roberto had been unable to climb a short staircase the day before he died.

■ A state investigative team said "it appears that those responsible for the safety and well-being of Roberto Reyes failed to recognize his medical distress and to provide access to appropriate medical evaluation and/or treatment." A panel of county and state officials previously had determined that earlier medical treatment "may have prevented this fatality."

■ Two local experts in spider-bite care told *The Star* that, in a combined 51 years of experience, they had never seen a spider bite induce the condition that killed Roberto.

■ Police reports reviewed by *The Star* show that since April 2003 at least seven persons had reported more than a dozen allegations of child abuse at Thayer to the Caldwell County sheriff's office.

■ Kanoy has asked the attorney general's office to assist in a criminal investigation of the alleged abuse of more than a dozen students.

After looking at police reports and portions of the state investigative report on Roberto's death, Johnson County District Attorney Paul Morrison said, "If half of what some of these people say is true, then there are some serious problems there that I think would probably allow for some criminal justice system intervention."

Kanoy said he hasn't filed charges against anybody at Thayer because some allegations don't rise to abuse, some can't be proved and others simply aren't credible. And investigations at Thayer are difficult, he said, because under state law, private facilities that provide care "in conjunction with an educational program" are exempt from state licensing and regulation.

"We can't get in the front door," Kanoy said.

Since Roberto's death, *The Star* has spoken with 14 former Thayer employees, 18 former students and the parents of 10 other former students.

Many of those students have troubled pasts, but their descriptions of life at Thayer generally were consistent.

Many of those students, as well as many parents and former employees contacted, noted a reluctance by Thayer officials to seek medical attention for sick or injured children. Many characterized the rigorous exercise regimen as capricious at best, sadistic at worst. Some described painful punitive measures.

Anjani Vyas, 18, of Pennsylvania, who attended Thayer from December 2003 until November 2004, said she had suffered through a stomach virus without getting medical care and had been forced to stand with her legs bent and her back against a wall for long periods.

"My right knee still hurts to this day," Vyas said. "I hated being there."

Roberto's death

A state social services investigative team spent more than four months examining Roberto's death, then sent its findings to Kanoy.

The team's report criticized the lack of medical treatment in Roberto's case and included written testimony from a 16-year-old former student who currently lives in Florida. According to the report, he told a state investigator that Roberto sometimes couldn't stand on his own to clean up after he had defecated on himself, that Thayer officials had dragged Roberto up steps and that he had seen dark bruising all over Roberto's upper body before he died.

That student wrote that Roberto had been so lifeless he could not get off the floor to lie on a nearby cot. He also wrote that he had told a Thayer employee that the school "would be in a lot of trouble if a cop saw this."

"I will be happy to speak to you anytime about more details," the student wrote.

The student's mother, Carol Rickless, asked that her son's name not be used. She said she had contacted the state investigator, but her family has not been questioned since then by law enforcement or state officials.

In their wrongful-death lawsuit, filed in Buchanan County Circuit Court, Victor and Gracia Reyes alleged that Roberto's failing health "would have been present for a significant period of time prior to his death" and that he would have survived had he received competent, timely medical care.

In court records, Thayer officials denied those and other allegations. The case is scheduled to go to trial in June.

The autopsy report identifies “complications of rhabdomyolysis” as the cause of death. It says the rhabdomyolysis, a breakdown of muscle fibers, probably was due to a spider or insect bite.

But Steven Simpson, a pulmonary and critical care physician at University of Kansas Hospital in Kansas City, Kan., and an expert in spider-bite care, said the mortality rate for spider bites is “exceedingly rare.” He said that if a bite was life-threatening, the person likely would be unusually sick within 24 hours.

Simpson also said that, in 16 years of practice, he had never heard of a spider bite inducing rhabdomyolysis. From his experience, the primary cause of rhabdomyolysis is lying motionless or even comatose for a lengthy period.

Another less-common cause of rhabdomyolysis is dehydration and over-exertion triggered by excessive physical activity, he said.

Gary Wasserman, a physician and chief of medical toxicology at Children’s Mercy Hospital, has written chapters on brown recluse spider bites for three toxicology textbooks. He wouldn’t discuss Roberto’s case specifically, but speaking in general terms, said he had dealt with hundreds of spider-bite cases in 35 years and couldn’t recall a single one in which a bite had triggered rhabdomyolysis.

“It’s not impossible,” Wasserman said. “But it would be very unusual.”

Miguel Laboy, the physician who performed the autopsy for the Jackson County medical examiner’s office, said the diagnosis was based on toxicology tests and other factors. He said he identified “an area of ulceration on the skin with infection, with inflammation” that was the likely location of the spider bite.

Police and autopsy reports also referred to several abrasions and bruises on Roberto’s body.

The state’s investigative report quoted witnesses who said Roberto had struggled to keep up with the rigorous exercise regimen during his short stay at Thayer. Some witnesses said he had complained of sore muscles or needed assistance walking and at times used other people as “a crutch.” It also said that, according to one witness, Roberto was forced to carry around a 20-pound bag of sand shortly after he had gotten to Thayer.

Two former students told *The Star* that Roberto looked normal shortly after his arrival. His parents sent him to Thayer after he had struggled with grades and run away from home.

Erik Ayers of South Carolina said Roberto had “looked horrible” as long as five days before he died.

“You could tell something was wrong,” said Erik, 15. “He really needed help.”

James Young, 17, of Oregon, said he had seen Roberto “probably three times” over two or three days.

“He was just lying there, like sleeping, all day,” James said.

Bill Sanders, who operates Security Protection Systems and Sanders Private Investigations in Paola, Kan., said he was hired by Willa Bundy in October to install surveillance equipment at Thayer. Sanders said he was paid more than $100,000, and that he and Willa Bundy have a dispute about an outstanding balance of about $3,000.

Sanders remembered seeing Roberto after he had collapsed at the bottom of some stairs. As school officials ordered him to get up, Sanders said, “Roberto was literally trying to climb up the stairs on his arms. He just couldn’t do it.”

Roberto was helped to the top of the stairs, Sanders said, collapsed again, then was walked to the dining hall by fellow students and school officials.

The next day, Sanders said he saw Roberto lying on the floor as three or four school officials berated him shortly before lunch. Roberto was eventually picked up and placed on a cot in a small room, Sanders said. Sanders walked into the room at least twice to work, he said, and "never saw him move once."

Police reports said that on Nov. 3, Thayer officials found Roberto unresponsive and began performing CPR. They called 911 at 3:32 p.m., and Roberto was pronounced dead on arrival at Cameron Regional Medical Center about an hour later.

In interview excerpts in the state's investigative report, the Bundys and some Thayer employees said they didn't know or didn't think Reyes had been sick before he died. One witness said Roberto appeared lazy, and another said he had had a bad attitude.

Records questions

The investigative report also said that interviews and evidence "suggest significant contradictions and possible deliberate falsification of written records" by Thayer officials. In court records, Thayer officials denied altering any written records, which were kept by Thayer staff about various students and their activities.

Kanoy said there were some "alarming" elements in the state report.

"I think we have a decent idea of how this child spent the last five or six days of his life. … I think he was in a world of hurt," Kanoy said. "I think he was in an unfamiliar place with unfamiliar people who may not have been treating him as nicely as he would like. I think he may have been in pain. I certainly think he was uncomfortable.

" … Do I think there's all kinds of fodder for a lawsuit? You bet."Both Morrison and Kent Gipson, a criminal defense attorney and adjunct professor at the University of Missouri-Kansas City School of Law, were alarmed at reports that Roberto hadn't received prompt medical attention.

"That's particularly troubling," Morrison said.

Gipson said, "My impression is: It looks like there is certainly enough there that a prosecutor could file charges if he wanted to."

But he added that prosecutors "have almost unfettered discretion. Obviously, there are some disputed things. … It would be hard for me to categorically or unequivocally criticize a guy for not filing charges based on what I know."

For former Thayer employee Kim Gertz, who has some fond memories of Thayer, it wasn't just Roberto's death that he found so unsettling. According to the state report, he didn't witness any physical abuse of students but wrote in a statement: "What strikes me most about my experience at Thayer is that after Roberto's death, no one seemed particularly concerned, and policy was not changed. …

"I am convinced that I was terminated because of my raising the issue of (inadequate) medical care."

Other allegations

Allegations of abuse and medical neglect began trickling out of Thayer long before Roberto died, according to police reports.

They came from students like Brittany Herrmann, who wrote in a complaint to the sheriff's office in April 2003: "I have been dragged outside on the ground by my wrists after being pushed down by a sergeant. I have scrapes and bruises all over me, particularly on my arms and legs. … I am very scared in writing this, for fear of further abuse. … There's much more going on with other kids."

Herrmann, now 18 and living in Texas, said recently by phone, “It totally blows my mind that a place like that can continue to run despite the complaints that have been filed.”

Theodore Rights, a Hamilton, Mo., doctor who saw Herrmann for a possible urinary tract infection, wrote in a statement to sheriff’s deputies: “(Herrmann’s) hysterical cries were that she was afraid of what they would do to her if she went back. She wanted protection.” Rights told *The Star* he had seen no signs of physical abuse on Herrmann but he wrote to sheriff’s deputies, “I have witnessed evidence of neglected medical problems in two other cases.”

In January 2005, former Thayer student Elizabeth Ramirez, 15, of California faxed to the sheriff’s department several allegations, including:

■ A student was “taken down” and said, “I can’t breathe,” as her face turned red and purple.

■ A girl’s gums began to bleed because she was forced to brush her teeth for four hours.

■ Students were denied medical attention for things such as infections.

She also sent the allegations to a state investigator.

Reached recently by phone, Ramirez said, “(Thayer) didn’t help me at all. I think it’s evil.”

Some allegations have come from employees.

According to the state report, former Thayer Director Gail Ledesma said she once got into trouble with John Bundy for having a student with a swollen and infected knee taken to a doctor. Another time, she was denied permission by John Bundy to take three girls to the doctor because, Bundy told her, the students would run away if they got the chance.

Kris Kessinger and two other Thayer employees went to the sheriff’s office in May 2004 and outlined an array of allegations involving more than a dozen students:

■ A drill sergeant was “helping” a student do push-ups, causing the student’s head to bounce off the concrete.

■ A student was tied up and dragged around a sand track behind an all-terrain vehicle.

■ Students weren’t allowed to use the rest room and, consequently, suffered bladder infections, kidney infections and constipation.

Two of the three women said they were fired almost immediately, and they thought it was because they had contacted law enforcement. They said the third woman also was fired, but she could not be reached for comment.

Sheriff’s Deputy Donald Fuller said he found the women’s reports credible.

Fuller asked Kanoy to subpoena medical records that might substantiate the allegations. In a report he submitted to Kanoy, later included in the Reyes lawsuit, Fuller wrote, “I have a reasonable belief … the crime of abuse of a child has been committed at Thayer Learning Center.”

Kanoy said he subpoenaed records of Thayer students from Renee Claycamp, a Hamilton, Mo., physician. It’s in connection with those allegations that Kanoy, 31, the sole prosecutor in his office, asked for assistance from the state attorney general.

“We’ll work with the prosecutor in determining whether there’s sufficient evidence to file charges,” said Scott Holste, a spokesman for Attorney General Jay Nixon. “But that decision will rest with Mr. Kanoy,

ultimately."

Claycamp's office referred calls to attorney Ed Proctor in Liberty. Proctor, who previously represented Thayer, said Claycamp was cooperating with the investigation.

Kanoy said his office takes abuse allegations at Thayer seriously. But some allegations don't name the victims or are second- or third-hand reports. He's not sure others constitute criminal behavior. One report, for example, says a girl was forced to sit in a plastic tub of urine for at least 2½ hours.

"That's disturbing," Kanoy said.

But is it child abuse?

"I don't know," he said.

There are also reports about kids being pushed and dragged.

"When you're trying to motivate somebody who's very obstinate, very anti-establishment, is pushing them and dragging them abuse?" Kanoy asked. "Personally, I don't think so."

Kessinger though is haunted by the memories of what she saw at Thayer. Now a full-time nursing student, she worked at Thayer from November 2003 until May 2004.

"I knew in my heart I'd be having this conversation one day about a child dying," Kessinger said.

Lax regulation

Some provisions in Missouri law allow certain individuals to safeguard children if abuse is suspected. But other laws are so lax that it's difficult for state agencies to afford protection to children in private facilities such as Thayer.

For example, law enforcement officials and physicians who have reasonable cause to suspect that a child is suffering from illness or injury or is in danger of personal harm may request that a juvenile officer take a child into protective custody. A law enforcement official or a physician also can take temporary protective custody of a child but only if there is reasonable cause to believe the child "is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect."

The Department of Social Services, however, cannot make unannounced visits to private facilities or remove children without a court order. And the Department of Elementary and Secondary Education has no oversight over private schools.

State social-service workers don't have the authority to speak to students on demand, and they can't shut down an unlicensed facility.

Officials with the Division of Children's Services investigate allegations of child abuse and neglect with law-enforcement agencies and officers of the juvenile court. But even sheriff's deputies have been turned away at Thayer, Caldwell County Sheriff Kirby Brelsford said.

Kanoy said, "There has to be a search warrant to get in the front door, or consent." He's been inside Thayer on one occasion, he said, but "consent has never been given" pursuant to any investigations. He said state officials "kind of get stonewalled" at Thayer, and that he's never had sufficient evidence to pursue a search warrant.

In a statement submitted to *The Star* in December 2004, Thayer officials said, "No state agency or law enforcement agency has substantiated any improper activity at Thayer. These agencies have scrutinized

Thayer frequently over the past 2½ years and found any and all allegations unsubstantiated or unfounded."

Brelsford said that, most of the time, Thayer officials eventually let officers see the students in question. But it's often several hours later, and sometimes he's been told that the students are no longer at Thayer.

He'd like to see legislation enacted that would force schools such as Thayer to be licensed and regulated by the state.

"I'd love to be able to go to that door and walk in whenever I need to," Brelsford said.

But Missouri is hardly alone with its lax licensing requirements.

U.S. Rep. George Miller, a California Democrat, is so concerned about the troubled-teen industry nationwide that he has introduced legislation that would provide more monitoring of facilities such as Thayer. The End Institutional Abuse Against Children Act would, among other things, provide $50 million to states to support the licensing of child residential treatment programs. A spokesman in his office estimated that there were hundreds of unlicensed facilities throughout the United States and that only about a dozen states — Florida, Michigan and Pennsylvania, among them — have any type of licensing requirements.

The Washington, D.C.-based Child Welfare League of America submitted a letter to Congress in August urging the Government Accountability Office to conduct a nationwide investigation. It urged Congress "to take action to ensure the safety of the children" and said "allegations of neglect and abuse at many of these programs include … the employment of vigorous physical means of restraint or individual seclusion or isolation."

The letter also said, "Since there is little public oversight of these residential programs and camps for troubled children and youth, we do not yet know the full scope of the problem."

The Child Fatality Review Panel, composed of county and state officials and charged with looking into all child deaths in the state, addressed the lack of state oversight in its final report on Roberto's death: "The panel feels appropriate legislation dealing with access to the facility by juvenile authorities, social services and law enforcement should be enacted to help remedy the lack of cooperation."

State Sen. Pat Dougherty, a St. Louis Democrat who has proposed legislation in the past that would regulate schools such as Thayer, said he doesn't expect Roberto's death to be a catalyst for legislative change "unless there's a lot of public outcry."

"Missouri legislators should step up to the plate and engage this and find a solution," Dougherty said. "But it's so easy to push it back and to ignore it, because people jump up and cry, 'Here's big government again.' "

Sen. Matt Bartle, a Lee's Summit Republican, said state intervention wasn't necessarily a cure-all. "A lot of times, I think, state licensing gives the appearance of oversight, and the reality is: There's very little," he said.

Sue Warner of Connecticut, whose son attended Thayer for four months in 2003, said Missourians needed to wake up. She submitted a lengthy letter to the Missouri attorney general's office two years ago, outlining various complaints:

■ Her son hadn't received medical care for his injuries.

■ She hadn't been advised that Thayer and Parent Help, the referral service that recommended Thayer, were both owned by the Bundys.

■ The academics of the program were "inaccurately and inconsistently communicated."

Nothing ever came of her complaints, she said.

“I’m far away, obviously, but it’s become obvious to me that people (in Missouri) almost have their hands over their ears and their eyes and don’t want to know,” Warner said. “I think that’s a travesty.”

The Star’s Scott Canon contributed to this report.