Approved: March 8, 2006
Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Vice-Chairman Siegfreid at 1:30 P.M. on February 8, 2006 in Room 313-S of the Capitol.

All members were present except:
Representative Kenny Wilk- excused

Committee staff present:
Athena Andaya, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:
Former Representative Rocky Nichols
Rex Beasley, Deputy Attorney General
Loren Snell, Attorney General's Office

Others attending:
See attached list.

Vice-Chairman Siegfried opened the meeting for bill introductions and recognized Representative Cox who requested a bill regarding revisions to the Kansas Money Transmitters Act. With no objections, this was accepted for introduction.

The Vice-Chairman opened the meeting for a briefing by former Representative Rocky Nichols on "Lessons Learned by the Kaufman Debacle." Representative Nichols currently serves as the Executive Director of the Disability Rights Center of Kansas. This is the officially designated state agency to protect and advocate for Kansans with disabilities. He further related that the purpose of this briefing is to provide information regarding the Kaufman House case and what went wrong.

Representative Nichols introduced Rex Beasley, Deputy Attorney General who presented information regarding the Kaufman House Case to prepare the Committee to hear the bills being introduced into the Committee. Mr. Beasley told of the horrors that went on in the Kaufman House over a period of 26 years. He asked the Committee to imagine themselves in the position of having a loved one develop a condition which was unable to be cared for at home and they were placed in the care of someone they trusted and who carried the necessary credentials and then later found that your loved one had been horribly mistreated and sexually abused. The things they were required to do were done in the name of "therapy." Mr. Beasley further stated that these abusive treatments were video taped for the Kaufman's personal use.
(No written testimony)

Loren Snell, Assistant Attorney General addressed the committee regarding the investigation into the Kaufman House Case. He related that each and every resident, over 20 victims, of the Kaufman House suffered indignities at the hands of the Kaufman's during the 26 year reign. He also stated that there were individuals who tried to come forward and let it be known what was happening, and because of their mentally ill status they were unable to get their message across about what was happening. Mr. Snell told of the many video hours of video tapes that were recovered during the investigation of the Kaufman House. The video tapes detailed everything that was going on in the Kaufman House and what the residents were forced to go through. The investigators were able to witness the forced labor, physical coercion, and duress the victims underwent. Mr. Snell reinforced the statement by Deputy Beasley that the treatment of these victims was all done in the name of "therapy" according to Mr. Kaufman. (No written testimony)

Representative Nichols returned to the committee and addressed the financial abuse of the Kaufman House victims. Two of the victims of the Kaufman House accompanied Representative Nichols and rose to support the testimony presented to the committee. These victims were at the Kaufman House for a period of a year and suffered abuse during that period of time.

In his testimony, Representative Nichols reviewed the six months that changed everything from May 18, 2004 to October 26, 2004. He also listed the four key lessons learned from the Kaufman House Case, and the way

the focus needed to change to obtain justice for victims, and enable the systemic coordination of the different protective agencies. (Attachment 1)

A case example - the financial exploitation example of Barbara T & lessons learned was submitted for committee review. This information showed the money written from Barbara T's account after Arlan Kaufman allowed his social work license to lapse in November of 2001 and he could no longer bill Medicare for what he referred to as "therapy". Copies of bank transfers and copies of canceled checks which Mr. Kaufman wrote on Barbara T's accounts were submitted for review. (Attachment 2)

An article written for the Topeka Capital-Journal by Tim Carpenter entitled *Case Points To Holes in State Safety Net,* told of people who lived close to the Kaufman House and did not realize what was happening. The article showed that the Kansas Attorney General Phill Kline's office collaborated with Disability Rights Center, Newton police and federal officials to break the Kaufman case in 2004. "The legislation provided some of the most vulnerable among us with much-needed protections," stated the Attorney General. Mr. Carpenter also related some of the living conditions which these victims were subjected to. (Attachment 3)

Another article written by Tim Carpenter of the Topeka Capital-Journal was *Breaking Down the Doors To A Human Nightmare.* Mr. Carpenter spent seven weeks investigating the state's dealings with the Kaufman's who were accused of mistreating their clients, enslaving them and having them perform sexual acts, and bilking the federal government of $217,000. A woman related her story to a lawman relating that she had been victimized for decades. This resulted in the investigation. A federal grand jury in Topeka indicted Arlan Kaufman, 68, and Linda Kaufman 62, on 34 criminal counts regarding their operation of residential group homes for mentally ill adults. (Attachment 4)

A third article was written by Tim Carpenter of the Topeka Capital-Journal entitled *Broken Trust-Homes Drew Years Of Complaint.* Mr. Carpenter reports that video evidence and former patients' stories paint a disturbing picture of life inside Arlan and Linda Kaufman's group home for the mentally ill. Interviews with dozens of people, analysis of internal and public state documents, examination of federal court records and review of detailed summaries of videotaped therapy sessions conducted by the Kaufmans gives voice to assertions that oversight of Kaufman group homes fell short of the ideal. (Attachment 5)

Other information distributed for committee review was *Comparison of DRC and APS/SRS Access Authority to Investigate Complaints of Abuse or Neglect.* (Author unknown) (Attachment 6)

Another article distributed was *Kaufman Case Shows Need For Reforms.* The Kaufmans were found guilty and face years behind bars, but the question still remains "why weren't the couples' crimes discovered sooner?" (Attachment 7)

Chairman Edmonds requested that Representative Nichols provide any information available regarding other such cases providing it didn't jeopardize any other investigation.

With no further business before the committee, Chairman Edmonds adjourned the meeting.

FEDERAL AND STATE AFFAIRS
GUEST LIST
Date 2-8-06

Sharon Joseph	KS AFL-CIO
Stacy Mann	KCSDV
Joyce Grover	" "
Pat Hurley	Pat Hurley & Co
Lindsey Douglas	Hein Law Firm
Kirk Lowry	DRC
Kenneth Bacon	KCDC
Patricia A Riley	Sup Ct Nom Comm.
Jim Robinson	Kansas Association Defense Counsel
AMBER BAXTER	CCC
Mila Bandel	CCC
Mardella Gustafson	CCC
Tara Chapman	CCC

DISABILITY RIGHTS CENTER of KANSAS
EQUALITY • LAW • JUSTICE

Disability Rights Center of Kansas
Rocky Nichols, Executive Director
635 SW Harrison, Ste 100 • Topeka, KS 66603
785.273.9661 • 877.776.1541 (Voice)
877.335.3725 (TDD) • 785.273.9414 FAX
rocky@drckansas.org • *Telephone Ext. #106*

Legislative Briefing on Lessons Learned From the Kaufman House Case
Presented to
House federal and State Affairs Committee

Presented by Rocky Nichols, Executive Director
February 8, 2006

Kaufman House Briefing: Six Months That Made The Difference

I. Six months that Changed Everything - May 18, 2004, to October 26, 2004

- Disability Rights Center (DRC) and Kansas Attorney General (AG) involvement and collaboration
- Focus shifted to what the victims wanted and needed, not what the bureaucracy wanted and needed.
- The victim's disabilities were respected, and their opinions were valued … not discarded and discounted (others had said they were "delusional" and that what they claimed was happening at the Kaufman house couldn't be true).

II: The Timeline

Feb 17, 2004
Attorney General Phill Kline meets with DRC's Executive Director Rocky Nichols and Litigation Director Kirk Lowry and makes a report of Abuse & Neglect at the Kaufman house. This report triggers DRC's access authority under federal law.

Feb 17 – May, 2004 – DRC uses its access authority to conduct an extensive investigation of the Kaufman house and obtain evidence, including copies of the video tapes depicting the bizarre sexual acts and abuse/neglect. DRC works with Attorney General and federal authorities to complete its investigation.

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 1

May 18, 2004, DRC employees go to the Kaufman house in Newton, Ks, accompanied by local law enforcement to execute our access authority, complete the on-site portion of the investigation and talk to residents of the Kaufman house. DRC's federal law gives it reasonable unaccompanied access to the person, the place and their records in order to conduct an investigation. One of the residents for whom Mr. Kaufman was court appointed guardian/conservator enters into an attorney-client relationship with DRC attorneys, and DRC begins providing civil representation to her ("Barbara T").

May 19, 2004, DRC attorney's represented the first victim and obtain civil actions to protect her. An emergency order from the Court is granted to DRC. DRC gets "Barb T" out of the deplorable conditions of the Kaufman house and to safety. Federal authorities and prosecutors had their first witness free from the abusive Kaufman house and free from the Kaufman's influence.

May, 2004 through October 2004 – DRC and the Kansas Attorney General work closely with federal authorities (HHS, Department of Justice, OIG, US Attorney's office) as they begin the process of re-examining the criminal case against the Kaufmans.

Oct 26, 2004 – The Kaufman house is raided. Arlan and Linda Kaufman are arrested. DRC accompanies the FBI and DOJ in their raid and arrest of the Kaufmans. DRC attorneys are appointed by the court to provide support to the victims to ensure that their rights are protected and proper services and supports are provided (housing, mental health care, etc.). Within days a Grand Jury has indicted Arlan and Linda Kaufman on a total of 62 counts, ranging from involuntary slavery/servitude of persons with mental illness, to defrauding taxpayers and billing Medicare for so-called "therapy," mail fraud, conspiracy, etc.

Oct, 2004 to Oct, 2005 – Federal prosecutors and authorities prepare for trial against Arlan and Linda Kaufman. DRC worked closely with prosecutors to protect the rights of the victims who have now become witnesses in the case.

Oct, 2005 to November 3, 2005 – Trial against the Kaufmans takes place in US District Court in Wichita Kansas. Kansas Attorney General's office offers support and staff to assist federal prosecutors in their case. DRC provides civil representation to 13 of the former victims of the Kaufman's abuse and former residents of the Kaufman house.

November 7, 2005 – The Jury finds the defendants guilty as charged on a cumulative 61 of 62 counts. Arlan Kaufman is found guilty on all 31 charges and Linda Kaufman was found guilty on 30 of the 31 charges.

January 23, 2006 – Judge sentences Arlan Kaufman to 30 years and Linda Kaufman to 7 years.

February 7, 2006 – Judge hears arguments on restitution for the victims of the Kaufman's abuse. DRC represents 13 of the former residents. A ruling will be made soon on this issue.

February 8, 2006 – House Federal and State Committee receives briefing on Kaufman House. Victims of the Kaufmans abuse are in attendance.

February 13, 2006 – Hearings are held by House Federal and State Affairs on bills to respond to Kaufman house and prevent future tragedies.

III. A Case Example In Financial Exploitation: Barbara T.

Arlan Kaufman was appointed as the Guardian and Conservator for Barbara T., a Kaufman house resident and victim of more than 20 years. Mr. Kaufman systematically drained her bank accounts of money at the same time he was abusing her, mentally, sexually and emotionally. See Attachment A, a review of the financial documents that detail Kaufman's exploitation of Barbara T.

III. The Kaufman case is also an example of how various components of the State's protective system can better act in concert rather than in the current fragmented fashion

Please see Attachment B that describes the differences between the legal authority of SRS's Adult Protective Services and the Kansas Protection and Advocacy system, The Disability Rights Center of Kansas.

A key to the success of actions taken in 2004 is the difference between SRS's access authority and DRC's access authority. The ability to obtain justice for the victim of abuse, neglect or exploitation – criminal prosecution or civil prosecution - is only as good as your investigation. This document walks through the

differences and helps partially explain why so many investigations and reports by the State go unanswered.

10 total reports of Abuse, Neglect and Exploitation were made to SRS APS (Adult Protective Services) and the investigations were done by SRS APS workers. (these were taken directly from an SRS timeline of the events in the Kaufman case)

- June 1984
- October 1984
- April 1987
- July 1988
- June 1995
- Dec. 1997
- Nov. 1999
- June 2001
- Sept 2001
- Feb 2004

At least four of the 10 reports of abuse and neglect came from former residents of the Kaufman house or their family members – July 1988, June 1995, Dec. 1997 and March 2003.

IV. Four Key Lessons Learned from the Kaufman House

#1 – Flaws in Kansas law and gaps in our State's Protective Services system failed the victims of the Kaufman House.

- A huge gap was a lack of focus on obtaining justice for people with disabilities and not focusing on the needs of the victims (see below).
- A big flaw is that Kansas law allowed Mr. Kaufman to be a guardian and conservator over a person with a disability and to have huge financial and other conflicts of interests. Mr. Kaufman was the guardian/conservator, so-called "therapist," landlord, service provider. These conflicts of interest are allowed under Kansas law, and they put people with disabilities at risk.
- Kaufman was allowed to act as though he was the guardian/conservator of the residents without accountability to the courts, families or the State.
- These flaws and gaps put people with disabilities at significant risk of abuse, neglect and exploitation. Current law enabled the Kaufmans to abuse and neglect the victims, and further perpetuated the abuse dragging it out the abuse for over 20 years.

- Until the law is changed and these gaps are closed, the State will continue to fail people with disabilities and put them at significant risk of abuse, neglect and exploitation.

#2 – Focus needs to change to obtaining justice for the victims – serving the victims' interest, not the interest of the bureaucracy.

- The 20+ year history of this case shows a problem that was almost exclusively the response with abuse & neglect of people with disabilities: the current system focuses on that the needs of the bureaucracy and not the needs of the victims to obtain justice.
- For example, much of the response from June of 1984 until Feb. 2004 dealt with the needs of the bureaucracy and the state's narrow interest (where was the Kaufmans' license, why weren't they licensed, why won't they conform with the Kansas Supreme Court order requiring them to be licensed, what are the bureaucratic policies, etc.).
- When the focus is on the victim's needs, then people's disabilities will be respected and biases and stigma against disability, especially mental illness will not thwart justice. Example: at least four of the 10 reports of abuse and neglect came from former residents of the Kaufman house or their family members – July 1988, June 1995, Dec. 1997 and March 2003.
- Once the focus was shifted to the needs of the victims, things changed for the better and results were obtained. The six month timeline above is the successful demonstration of this approach (May to Oct., 2004). This is the model of how the state should conduct business with abuse/neglect of victims with disabilities.
- The state has the same basic protective services today as when we had a handful of large facilities warehousing people with disabilities. Kansas needs to update its protective services to the new millennium and the new reality of community based services.
- The lack of focus on justice and the needs of the victims is a gap. The State needs to fill this gap by changing the system to create a new focus on obtaining Justice for the victims. Need a new focus, not a new agency.
- Turn the key the whole way to open up the door to justice. Way to do that is to provide funding and focus to represent the needs of the victims … what the victims need is the system to change to provide: 1) Effective Investigations, 2) Criminal Prosecution, 3) Civil Prosecution (civil actions, change of guardianships, protect them as crime victims, etc.).
- The new, more effective system needs to be created through enabling legislation

#3 – Enable systemic coordination of the different protective services agencies, law enforcement, and prosecutors.

- Ensure that situations like Kaufman never happen again.
- Create the capacity to obtain justice for the victims.
- Have the different agencies involved (SRS, Dept. on Aging, KDHE, Attorney General, Protection and Advocacy agency – DRC – law enforcement, etc.) work cooperatively to support this new focus on justice.
- When all the different partners can only turn the key so far – then they need to collaborate with the partner who can.

#4 – Victims have asked us to tell you perhaps the biggest lesson learned is that the State needs to act now and take the necessary steps to prevent this from ever happening again.

A Case Example – the Financial Exploitation Example of Barbara T & Lessons Learned.

- Arlan Kaufman was the court appointed Guardian and Conservator for Barbara T, a person with mental illness who was a resident of the Kaufman house and receiving so-called "therapy" services.

- The attachments from the federal government show that nearly $100,000 of this one person's income remains unaccounted. (see total, page 2 of transfers chart) This nearly $100,000 does not include any of her SSI or SSDI checks that the Kaufman's may have taken from Barb T.

- This case example is a textbook reason why the State should not allow guardians or conservators to have financial or other conflicts of interest with their ward (the person with a disability). Mr. Kaufman was the guardian, conservator, so-called "therapist," and service provider. These conflicts of interest put people with disabilities at risk of abuse, neglect and financial exploitation.

- Arlan Kaufman billed Medicare for services provided to Barbara until he allowed his social work license to lapse in November of 2001. He billed taxpayers for "therapy" and other services until that time.

- Arlan Kaufman made annual accountings to the Court of Barb T's income and expenditures through 1999. After 1999 he made no more reports to the Court.

- Barbara was a Social Security beneficiary and all of her benefits were controlled by her guardian/conservator, Arlan Kaufman. It appeared that she had no savings or resources until 2001, most likely because her SSDI and SSI were taken.

- Barb T's brother died in 2000 and she was the sole heir of his estate. The attached documents detail the transactions from receipt of her inheritance in January 2001 until Kaufman was removed as Guardian in May 2004. None of this was reported to the court.

- June 2001 the U.S. Department of Health and Human Services Office of Inspector General executed a search warrant at the Kaufman's home and other properties and obtained videotapes from Kaufman's bedroom that contain "therapy sessions" of the group home residents.

- Arlan Kaufman surrenders his Social Work License in November 2001. He could no longer bill Medicare prospectively for services after November 2001. So, what did he

do? He began writing himself checks retroactively for "therapy" services rendered prior to 2001.

- Barbara Received at TOTAL of $175,697.10 from her brother's estate between 2001 and 2002. (see transfer chart dated January 11, 2001 & December 19, 2002) (Check #1 is $165,000.10)

- Beginning on August 28, 2002 Arlan Kaufman began writing checks to himself as the Kaufman House, Inc. from Barbara's inheritance account (World Savings). He moved money from her World Savings account to her local Newton Commercial Federal account and then wrote checks to himself through Kaufman House, Inc. (Check #s 2, 3, 4 and 9 are examples of movement from inheritance to local checking)

- Federal prosecutors presented evidence in the form of canceled checks totaling more than $96,000 between August 2002 and May 2004 wrote to himself with his wife, Linda Kaufman co-signing and depositing them. (see total on Transfers Chart)

- By reviewing the canceled checks and the prosecutor's detailed statement you can see where Kaufman wrote himself checks from BTs accounts for "therapy" provided years earlier when he was already billing Medicare for the same services. For example, on May 27, 2003 he wrote a check to himself for $20,567.17 for "therapy" provided in 1986. (see transfer chart date May 27, 2003)

- He continued writing checks to himself for services provided in "1986, 1993, 1994, 1995, 1996, 1997, and 1998." During those same years the Kaufmans were billing Medicare for services for Barbara. Again, he couldn't continue to charge the taxpayers for this bizarre "therapy," so he found other ways. (See checks # 5-14)

- Arlan Kaufman continued to write checks to himself until DRC took action to file for removal of the Guardianship and removed Barbara at her request from the Kaufman group home on May 19, 2004. (see final checks dated May 10, 2004 on transfers chart)

- Unfortunately, until the conclusion of the criminal trial neither Barbara nor her newly appointed Guardian were not aware that some money remained in her inheritance account. DRC attorneys are working to ensure that she has access to the remaining funds.

Transfers to/from Barbara T's Accounts

Date	From Barbara T's Account at	To Barbara T's World Savings Acct	To Barbara T's Commercial Federal Acct	To Kaufman House, Inc. Acct	Noted Purpose
January 11, 2001	U.S. Treasury Check 08994712 VA Insurance		10,000.00		
August 28, 2002	Commercial Federal Check 0085			7,605.00	
September 12, 2002	Commercial Federal Check 0086			2,375.00	
December 19, 2002	U.S. Bank Check 500350596	165,697.10			
December 31, 2002	World Savings Bank Check 92			16,000.00	
January 3, 2003	World Savings Bank Check 91		15,000.00		
April 14, 2003	Commercial Federal Check 1014			3,440.00	Jan - Apr
May 9, 2003	World Savings Bank Check 94		40,000.00		Account # 92983401
May 27, 2003	**Commercial Federal Check 1024**			**20,567.17**	**86**
May 27, 2003	Commercial Federal Check 1025			470.00	May
May 27, 2003	Commercial Federal Check 1026			3,750.00	
July 21, 2003	Commercial Federal Check 1031			615.00	June
July 21, 2003	Commercial Federal Check 1032			560.00	July
September 6, 2003	Commercial Federal Check 89			3,251.50	93 Therapy
September 6, 2003	Commercial Federal Check 90			4,624.45	94 Therapy
September 6, 2003	Commercial Federal Check 91			3,210.55	93 Deficit
September 6, 2003	Commercial Federal Check 92			2,287.00	94 Deficit

Date	From Barbara T's Account at	To Barbara T's World Savings Acct	To Barbara T's Commercial Federal Acct	To Kaufman House, Inc. Acct	Noted Purpose
December 19, 2003	World Savings Bank Check 95		20,000.00		
January 2, 2004	Commercial Federal Check 1041			2,472.00	
February 20, 2004	Commercial Federal Check 1042			750.00	Jan.
February 24, 2004	Commercial Federal Check 1058			6,032.38	95 Therapy
February 24, 2004	Commercial Federal Check 1059			575.03	Feb
February 26, 2004	Commercial Federal Check 1060			992.00	95
February 26, 2004	Commercial Federal Check 1061			812.00	96
February 26, 2004	Commercial Federal Check 1062			5,033.16	96 ther
February 26, 2004	Commercial Federal Check 1063			133.31	Prescriptions
February 26, 2004	World Savings Bank Check 96		4,950.00		
April 5, 2004	World Savings Bank Check 97		4,950.00		
April 6, 2004	Commercial Federal Check 1069			3,898.62	97 ther
April 6, 2004	Commercial Federal Check 1070			4,477.79	98 ther
May 10, 2004	Commercial Federal Check 1072			913.52	97
May 10, 2004	Commercial Federal Check 1073			1,910.99	98
Totals		**$165,697.10**		**$96,756.47**	

Total Amounts in Barbara T's Accounts **$ 175,697.10**
Total Expenditures in 21 months **$ 96,756.47**
Percentage **55.1%**

THIS DOCUMENT HAS AN ARTWORK WATERMARK PRINTED ON THE BACK. ABSENCE OF THIS FEATURE WILL INDICATE A COPY

usbank
Five Star Service Guarantee!

No. 500350596

93-641
920

DATE: DECEMBER 12, 2002

ONE HUNDRED SIXTY FIVE THOUSAND SIX HUNDRED NINETY SEVEN DOLLARS AND 10 CENTS

PAY $165,697.10

TO THE ORDER OF: ARLAN KAUFMAN AS CONSERVATOR FOR BARBARA [redacted] T[redacted]

PURPOSE/REMITTER: THOMAS SHADOIN

Drawer: USBank
420

AUTHORIZED SIGNATURE

OFFICIAL CHECK
Location: 2539213
Issued By Traveler's Express Company, Inc
Drawer First Interstate Bank Helena, MT

⑈0500350596⑈ ⑆092005411⑆016001069828 2⑈ ⑈0016569710⑈

Arlan Kaufman

⑆1010-8888⑆
World Savings Bank, FSB

DEC 19 2002

Shawnee, KS
913-871-8888
⑆1010-8888⑆

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EX 080A-008

3-5

1

83-8929/1010 92

DATE Dec 31, 2002

PAY TO THE ORDER OF Kaufman Treatment Center $16,000.00

Sixteen Thousand Dollars & No/100 DOLLARS

WORLD SAVINGS

455 South West Street
Wichita, KS 67213
www.worldsavings.com

MEMO

Allan Kaufman

⑆101089292⑆0092 ⑈ [redacted] ⑈0001600000⑈

2

L-E

ENDORSE HERE

Kaufman Treatment Center
Linda J. Kaufman

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE RESERVED FOR FEDERAL RESERVE USE

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Security features listed below are intended, exceed industry guidelines

Security Features	Results of document processing
MicroPrint: Borderline	• Small type is [illegible] as dotted line when [illegible]
Chemically Active Paper	• Stains or spots indicate chemical alteration
Security Screen	• Absence of "Original Document" verbiage on back of check

Visit our website at www.frbsf.org/publications/check/index.html

* FEDERAL RESERVE BOARD OF GOVERNORS

83-6929/1010

91

DATE 1-3-03

PAY TO THE ORDER OF Barbara T[redacted] Account #[redacted] $15,000.00

Fifteen Thousand dollars & No/100 DOLLARS

WORLD SAVINGS®
455 South West Street
Wichita, KS 67213
www.worldsavings.com

MEMO Transfer

Arlon Kaufman

⑆101089292⑆0091 ⑈ [redacted] ⑈0001500000⑈

3

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

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* FEDERAL RESERVE BOARD OF GOVERNORS

83-8929/1010 94

DATE 5-9-03

PAY TO THE ORDER OF Barbara A. T[redacted] checking Commercial Federal Bank $40,000.00

Forty Thousand dollars + No/100 DOLLARS

WORLD SAVINGS℠
455 South West Street
Wichita, KS 67213
www.worldsavings.com

MEMO Account #[redacted] Arlan Kaufman

⑈101089292⑆0094 ⑈ [redacted] ⑈0004000000⑈

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THIS IS TO CERTIFY THAT THE TOTAL AMOUNT OF THIS CHECK HAS BEEN CREDITED TO THE ACCOUNT OF THE WITHIN NAMED PAYEE IN ACCORDANCE WITH PAYEE'S INSTRUCTIONS. ABSENCE OF ENDORSEMENT GUARANTEED

COMMERCIAL FEDERAL BANK

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

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Commercial Federal

0089

83-7108/3011

Date 9/6/03

Pay to the Order of Kaufman Treatment Center | $ 3251.50

three thousand two hundred fifty one & 50/100 Dollars

Security features included Details on back

Commercial Federal Bank
A Federal Savings Bank
Kansas

Arlan Kaufman

For 93 Therapy

⑆301171081⑆0000[redacted]0089 ⑈0000325150⑈

© HARLAND 1997

9/6/03
307 AK/LK wrote Themselves a checks for
#3251.50
4624.45
3210.55
2287.00
#13,373.50

0326
0374794340 | 09092003

Kaufman Treatment Center
Funds for Kaufman

5

2-12

EX 080A-029

Federal

0090

83-7108/3011

Date 9/6/03

Pay to the Order of Kaufman Treatment Center $ 4624.45 ak

four thousand six hundred twenty four and 45 cents Dollars

Security Features Included Details on back.

Commercial Federal Bank
A Federal Savings Bank
Kansas

For 94 therapy

Arlan Kaufman

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© NARLAND 1997

EX 080A-030

Kaufman Treatment Center
Linda J. Kaufman

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101100029

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Federal

0091

83-7108/3011

Date 9/6/03

Pay to the Order of Kaufman Treatment Center $ 3210.55

three thousand two hundred ten and 55/100 Dollars

Security features included. Details on back.

Commercial Federal Bank
A Federal Savings Bank
Kansas

For 93 Deficit

Arlan Kaufman

⑆301171081⑆0000[redacted] 0091 ⑈0000321055⑈

© HARLAND 1997

EX 080A-031

Kaufman Treatment Center
Kenda J. Kaufman

DO NOT LOOK THIS LINE

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101100029 09/08/2003 0022547160
101100029

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Commercial Federal

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83-7108/3011

Date 9/6/03

Pay to the Order of Kaufman Treatment Center $2287.00

two thousand two hundred eighty seven Dollars

Security features included. Details on back.

Commercial Federal Bank
A Federal Savings Bank
Kansas

For 94 Deficit

Arlan Kaufman

⑆301170816⑆0000[redacted] 0092 ⑈0000228700⑈

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EX 080A-032

32/15

Kaufman Treatment Center
Linda J. Kaufman

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83-8929/1010

96

DATE 2/26/04

PAY TO THE ORDER OF Arlan Kaufman for Barbara A. [redacted] Commercial Federal Bank 92983401 $4950.00

forty nine hundred fifty and no cents DOLLARS

WORLD SAVINGS

455 South West Street
Wichita, KS 67213
www.worldsavings.com

MEMO

Arlan Kaufman

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Arlen Kaufman
for Barbara A. Thiel

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FOR BARBARA [redacted]
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NEWTON KS 67114
316-283-4605

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Date 2/24/04

Pay to the Order of Kaufman Treatment Center | $ 6032.38

Six thousand thirty two and 38 cents Dollars

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100 West 12th Street, Newton, KS 67114
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For 95 thru

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Linda J. Kaufman

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ARLAN KAUFMAN
FOR BARBARA [redacted]
1416 GRANDVIEW
NEWTON KS 67114
316-283-4605

Date 2/24/04

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Pay to the Order of Kaufman Treatment Center $ 575.03

five hundred seventy five and 3 cents Dollars

Commercial Federal Bank
100 West 12th Street, Newton, KS 67114
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Kaufman Treatments Center
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ARLAN KAUFMAN
FOR BARBARA [redacted]
1416 GRANDVIEW
NEWTON KS 67114
316-283-4605

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83-7108/3011 563

Date 2/26/04

Pay to the Order of Kaufman Treatment Center $ 992,00

nine hundred ninety two and no cents Dollars

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100 West 12th Street, Newton, KS 67114
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ARLAN KAUFMAN
FOR BARBARA [redacted]
1416 GRANDVIEW
NEWTON KS 67114
316-283-4605

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83-7108/3011 563

Date 2/26/04

Pay to the Order of Kaufman Treatment Center | $ 812.00

eight hundred twelve and no cents Dollars

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Kaufman Treatment Center
Linda J. Kaufman

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ARLAN KAUFMAN
FOR BARBARA [redacted]
1416 GRANDVIEW
NEWTON KS 67114
316-283-4605

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Date 3/26/04

Pay to the Order of Kaufman Treatment Center | $5033.16

Five thousand thirty three and 16 cents Dollars

Commercial Federal Bank
100 West 12th Street, Newton, KS 67114
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Kaufman Treatment Center
Fundo J. Kaufman

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CJOnline.com / Topeka Capital-Journal
Published Tuesday, June 28, 2005

MORE

Case points to holes in state safety net

By Tim Carpenter
The Capital-Journal

NEWTON -- Robin McDaniel lives by the large house at 321 W. 7th St. once extolled as a therapeutic sanctuary for adults stricken with mental illness.

The computer technician said he never saw or heard anything unusual in the fenced backyard or through curtained windows at the residential care facility owned by social worker Arlan D. Kaufman, 68. Mr. Kaufman operated the group home and another at 119 W. 8th St. with his wife, nurse Linda J. Kaufman, 62.

"Goes to show you don't always know what you're living next to," McDaniel said.

A tidal wave of incredulity engulfed McDaniel and the rest of the 19,000 people living in Newton when Federal Bureau of Investigation agents converged Oct. 26 on this city in south-central Kansas. It was jarring for bystanders along Grandview Avenue to watch the Kaufmans hustled off to jail on a warrant alleging they forced a patient into involuntary servitude, or slavery. The FBI also created a scene on 7th and 8th streets while raiding the Kaufmans' group homes, removing all of the mentally disabled patients and locking doors to both houses.

Mike Shepherd/The Capital-Journal
Rocky Nichols, executive director of the Disability Rights Center of Kansas, says more needs to be done to ensure that those with mental or physical disabilities are protected from exploitation. He is an advocate of establishing a single organization to coordinate the activities of those fighting abuse.
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These events constituted the public outing of an extraordinary private feud between the Kaufmans and authorities that had its roots in the mid-1980s.

A federal grand jury in Topeka later raised the stakes by amending the indictment against the Kaufmans to include 34 criminal counts. Prosecutors charge the couple took the government for $217,000 in a Medicare scam. They also allege the Kaufmans made patients engage in sexual escapades and built a private videotape collection of the X-rated interplay. Mr. Kaufman was shown on video touching male and female patients in an intimate manner.

More than 20 former patients are listed in the indictment as victims in the case.

Facing 325 years in prison, the Kaufmans pleaded not guilty.

Reaction in Newton continues to be a mixture of frustration, compassion and repulsion.

The angry want both Kaufmans to spend the balance of their lives behind bars.

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 3

Others believe in the couple's innocence. They pray accusations against the Kaufmans are unfounded and that disabled patients never suffered.

EDITOR'S NOTE: Topeka Capital-Journal reporter Tim Carpenter spent seven weeks investigating the state's dealings with a Newton couple accused of mistreating their clients, enslaving them and having them perform sexual acts, and bilking the federal government of $217,000. What follows is the third of a three-part series detailing how a coalition of agencies broke the code of silence at the couple's group homes.

SUNDAY'S STORY: Broken trust -- Homes drew years of complaints
MONDAY'S STORY: Breaking down doors to a human nightmare
A significant number -- the Harvey County seat's silent majority -- are eager to put the sordid affair behind them.

Rocky Nichols, executive director of the Topeka-based Disability Rights Center of Kansas, said the legacy of the Kaufman case shouldn't be about burying heads in the sand. There is opportunity, he said, to turn Newton's tragedy into triumph. Every organization with a policy interest in Kansas' mentally ill should come together to examine what went awry at the Kaufman group homes and study how to prevent abuse in the future, he said.

"We have to have an honest dialogue about this," Nichols said. "If what's been alleged is true, the system failed."

Power of disbelief

At least two former patients of the Kaufmans want to believe Kansas leaders care enough to look at the unvarnished truth. But, they said, it's easy to imagine a scenario under which policymakers give fleeting attention to the allegations, adopt half-baked fixes and place the scandal on a shelf to collect dust.

It's a reaction borne of experience.

Both of these ex-clients of the Kaufmans said they were met by disbelief years ago when confiding in others about alleged transgressions at Kaufman residential treatment homes. The idea of misconduct by apparently reputable service providers sounded crazy. Indeed, it wasn't lost on anyone that people leveling charges were known to tilt at windmills.

"I will say this much, people back in the '80s -- probably even now -- did not listen to mentally ill people. In my particular case, no one believed me," said a Kaufman patient now living in another state who asked not to be identified.

She said she was subjected to nude therapy and "other bad things" at Kaufman group homes. Mr. Kaufman "talked a good game" when anyone looked over his shoulder, she said.

"Everyone thought he was legit," the former patient said. "One can't assume that just because you're the same religious denomination, you go to the same church, you go to the same school or the same college that you're legit."

The Kansas Department of Social and Rehabilitation Services investigated at least six complaints about possible victimization of Kaufman patients over the past 20 years, according to an internal report put together by the agency. None of these investigations led to disciplinary action by SRS against the

Kaufmans.

Another former patient, who asked to be identified as Lynn K. of Wichita, said she understood why most people find it nearly impossible to conceive that a licensed social worker and a licensed registered nurse working in the cozy city of Newton would participate in a treatment regimen that included sexual and mental abuse.

Lynn said there were moments when it was difficult for Kaufman patients to believe what was happening around them.

"There was a gal. She was always talking about sex, saying, 'They're having sex with me!' We thought she was delusional," Lynn said. "I believe it now."

Kline weighs in

Kansas Attorney General Phill Kline, whose office collaborated with the Disability Rights Center, Newton police and federal officials to break the Kaufman case in 2004, went to the Statehouse in February to pour his influence into the reform movement.

He endorsed a package of legislation, drafted by the Disability Rights Center, that was designed to reduce the likelihood that abuse, neglect and exploitation of the type allegedly experienced by Kaufman clients could be replicated in Kansas.

"This legislation provides some of the most vulnerable among us with much-needed protections," the attorney general said.

He urged the 2005 Legislature to:

• Require accountability in management of small group homes through state licensing. A loophole in state law permitted the Kaufmans to evade SRS licensing of their residential care facilities for more than 20 years.

• End conflicts of interest for nonfamily legal guardians of people with disabilities. Federal investigators say Mr. Kaufman was guardian, landlord and therapist of at least one person at his group home. This type of conflict of interest, considered unethical by social work associations, is permitted under Kansas statute.

• Provide state funding for investigation of abuse, neglect and exploitation cases independent of SRS or the state agency providing disability services or oversight. The new unit could rely on the attorney general's office for criminal prosecutions and the Disability Rights Center for civil litigation.

Nichols, a former member of the Kansas House, said he expected his former colleagues in the Statehouse would look upon the collection of bills with unease. Some would be tempted to embrace piecemeal change rather than broad reform. Others would be repelled by the idea of investing scarce state funding in a solution.

"Status quo ain't cutting it," Nichols said. "There are people with disabilities who are being abused and neglected each and every day. Their rights are being trampled on."

Legislative promise, reality

Federal prosecutors asserted in court documents that no doctor, therapist or counselor provided quality, professional treatment to mentally ill residents at Kaufman group homes in the 15 years before both were shut down last October in the federal raid.

If true, that kind of treatment gap -- loss of years of opportunity to move closer to recovery -- would have begun while George H.W. Bush was president. The World Wide Web hadn't been born.

Rep. Tom Thull, D-North Newton, said he was compelled to join the reform campaign after the Kaufmans' arrest and hearing shocking descriptions of client abuse. About a dozen legislators also spoke openly about the need for change.

"The Legislature must take strong steps to prevent this from ever happening again," Thull said.

Lawmakers passed and the governor signed the so-called accountability measure advocated by Kline and the Disability Rights Center. The law mandates group homes with as few as two residents obtain a state license to operate. It cleared the House and Senate on unanimous votes.

Neither of the other two proposals raised by the Disability Rights Center and the attorney general was adopted.

Lawmakers did pass a law giving SRS as much as 90 days to complete an investigation of alleged abuse, up from 30 days, and handed the agency's inspectors permission to reopen closed cases if new evidence emerged.

SRS also received authority to seek court-ordered closure of group homes if operators declined to submit to licensing. That adjustment was necessary because SRS failed to get the Kaufmans to license their group homes, despite years of effort. In 1991, SRS had won a Kansas Supreme Court case that made it clear the Kaufmans must comply with state licensing law. But the Kaufmans escaped state monitoring by cutting the patient population at each group home to four. State regulations at that time exempted from licensure group homes with fewer than five residents.

Thull said ideas for additional regulation for providers of services to mentally ill people might be addressed in the 2006 session. He said the effort in 2005 was a solid beginning.

"I think we did some good things," Thull said.

Must think bigger

Nichols, of the Disability Rights Center, said he approved of bills adopted this session to help protect the disabled. It just wasn't enough, he said.

He said giving SRS authority to shut down group homes that don't submit to licensing won't guarantee the agency aggressively investigates suspected malfeasance.

It was legal action by attorneys at the Disability Rights Center, based on information provided by Newton police and the attorney general's office, that precipitated removal of the first client from a Kaufman group home in May 2004. That patient, identified only as "Pam," had been trapped in the facility because Mr. Kaufman was her legal guardian. He also was her therapist and landlord.

Nichols said SRS staff was aware of allegations that Kaufman group home residents had been sexually

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and mentally victimized by the Kaufmans but didn't act to protect her. He said state law at that time required SRS to investigate suspected abuse, neglect and exploitation.

"When something like this goes on for 20 years, it's not OK for state government to say, 'Well, we fixed it with this bill we passed.' It's not OK to say the status quo worked," Nichols said.

He said the Legislature should assign a single organization to coordinate activities of agencies working to thwart abuse, neglect and exploitation. No mechanism exists in Kansas to hold publicly funded agencies and organizations accountable if they fail to defend rights of the mentally ill, he said.

Nichols said the state should require maintenance of a central registry of workers found to have abused people with disabilities. Policymakers also ought to earmark money from the state general fund specifically for investigation and prosecution of activity of the kind that resulted in indictment of the Kaufmans, he said.

Legislators could write into state statute authority the Disability Rights Center now holds under federal law. It would help the center obtain swift court-ordered protection for people in harm's way, Nichols said.

"If DRC is blocked from entering a group home in Colby, the nearest federal courthouse is in Denver or Wichita," he said. "That requires a delay of at least one day. That's time for the bad guys to hide their tracks."

Hold on a minute

SRS Secretary Gary Daniels, who took over the No. 1 job in the agency after the Kaufmans were arrested in October, said events reported to have transpired at the group homes in Newton were disturbing.

"Certainly, if it all is true, then it's pretty disgusting," he said. "It's mind-boggling how this would occur."

Daniels said there was no question that "we all have to share" in responsibility for any wrong perpetrated against patients at the Kaufman homes.

He defended the work of SRS, noting that the hands of agency staff were tied by state law limiting options in the Kaufman case. At no time, he said, did SRS provide funding to the Kaufman homes or patients living in the facilities. If SRS money had flowed to the operation in Newton, he said, that would have given the agency a stronger foothold.

In addition, he said, SRS had no way to force the Kaufmans to submit to state licensing of the residential facilities. The Kaufmans did violate state law by refusing to obtain an operating license, but lawmakers neglected to insert into statute any disciplinary measure SRS could rely upon to compel the Kaufmans to comply. He said SRS needed a much bigger hammer, and the Kaufmans knew it.

"We had no authority to say, 'Here is the consequence if you don't become licensed,' " Daniels said.

Daniels said he couldn't explain why SRS did nothing for at least 20 years to change state law to incorporate sanctions for organizations that defy licensing.

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He said another complicating factor for SRS was that each of the patients at the Kaufman homes was determined to have mental "capacity," which means they had a legitimate role to play in determining treatment. SRS simply couldn't tell the Kaufmans' patients how to live, he said. In fact, some clients told SRS staff they wanted to remain at the Kaufman homes indefinitely.

In terms of future reform, the SRS secretary said it might be useful for the state to create a registry of guardians serving people with disabilities. If that existed in 2004, SRS would have known immediately that Mr. Kaufman was legal guardian of a patient whom he was suspected of victimizing. SRS could have used its legal authority to ask a judge to change guardianship to someone other than Mr. Kaufman.

"Something like that could have, perhaps, led us to a guardian," Daniels said.

Sparking fan, electric toilet

When law enforcement officers got a good look at living conditions inside the Kaufman homes during the raid in October, they were alarmed. It was obvious that neither was part of the Hilton chain.

The Kaufman house on 8th Street had plastic sheeting covering holes in the roof. The simple act of flipping a wall switch in a downstairs room proved to be a safety hazard.

"There were sparks shooting out of a fan on the ceiling," said Newton police Detective T. Walton.

Accommodations at the group home on 7th Street weren't better. Plywood was tacked over holes in outside walls. One bathroom had exposed wiring.

"You could sit on the toilet and get electrocuted at the same time," Walton said.

That doesn't mean these were low-rent group homes. Mary Odem, an elderly woman who was a resident of the Kaufman group home on 7th Street at the time of the Kaufmans' arrest, told the Newton Kansan that she was paying $2,000 per month to live there.

Karen Ford Manza, executive director of the National Alliance for the Mentally Ill in Kansas and a new appointee by Gov. Kathleen Sebelius to the state's Mental Health Planning Council, said conditions at Kaufman group homes offer insight into desperation Kansas families feel when trying to secure quality residential services for someone with severe mental illness.

Just as daunting, she said, was the challenge of obtaining reliable transportation for a mentally disabled person.

"Without those ... people can be exploited," Manza said.

She said public awareness about the need to improve access to housing, transportation and medical care for the mentally ill was lacking. She said significant reform in program offerings could cost the state millions of dollars, but Kansas families caught in the web of mental illness already have a sense of the high price exacted.

"It can drive people into poverty," Manza said.

On the surface, she said, a Kaufman group home in a small city in south-central Kansas would have seemed ideal. The homes were to have a family atmosphere. One-on-one treatment was supposedly

available from a therapist with a doctorate in social work. A nurse would be there to supervise medication. Newton is also home to Prairie View mental health center, the largest provider of mental health services in Kansas.

Manza said the emerging picture of survival in a Kaufman group home suggests the state has work to do.

"If there had been more options, this Kaufman situation might not have happened," she said.

The trial, beyond

Linda Flores, a lifelong resident of Newton, said she counted herself among the fortunate who haven't had to deal directly with mental illness. A new study indicates one-quarter of all Americans met the criteria for having a mental illness within the past year, which would rank the United States at No. 1 for mental illness globally.

"It makes you stop and think," said Flores, who works at a German restaurant on Main Street.

Flores said it was disturbing to imagine that people living a few blocks from her home in Newton were being mistreated all those years.

"It's sad we didn't catch it sooner and sad to think that people had to live like that," she said.

The Kaufmans pleaded not guilty, and U.S. District Judge Sam Crow scheduled a jury trial in Topeka's federal courthouse. The couple face more than 300 years in prison and millions of dollars in fines. The trial is set for October. Proceedings could be delayed given the complexity of a case intermingling allegations of sexual misconduct and white-collar crime.

Defense attorneys Chris Joseph and Tom Haney will be challenged to convince a jury that the Kaufmans' approach to therapy was beneficial to their patients and that sexual activity at the group homes occurred among consenting adults. They must counter the theory of federal prosecutors that the Kaufmans were in control of a private nudist enclave in which mentally disabled people were exploited for pornographic and financial gain.

"It's going to be a long, difficult case," Haney said.

Could the Kaufmans' bitterness about being accused of wrongdoing be wiped away by a jury's declaration of not guilty? Not likely. Acquittal won't stop people in Newton from whispering knowingly about the Kaufmans' legal ordeal.

Could patients of the Kaufmans be made whole again if the jury deems the Kaufmans guilty? Not likely. Like a projector stuck on the same slide, images of the past will keep flashing through the minds of people who spent time at the group homes.

"You can't make it right," said Kline, the state's attorney general.

Tim Carpenter can be reached at (785) 296-3005 and at tim.carpenter@cjonline.com.

THE TRIAL, BEYOND

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A federal grand jury in Topeka indicted Arlan D. Kaufman, 68, and Linda J. Kaufman, 62, both of Newton, on 34 criminal counts regarding their operation of residential group homes for mentally ill adults.

The Kaufmans operated the treatment homes in Newton for more than 20 years. Both are free on bond, pending a jury trial scheduled for October in Topeka.

If convicted on all counts, the Kaufmans face 325 years in prison and $8.5 million in fines.

The indictment:

• Sixteen counts of health care fraud tied to submitting false claims to Medicare for services not rendered or not documented.

• Nine counts of mail fraud for using the U.S. Postal Service to send fraudulent invoices and to receive payment from patients' families.

• Three counts of holding group home residents in a condition of involuntary servitude.

• Two counts of forcing residents to perform labor.

• One count of conspiracy. This covers a range of allegations from bilking the federal Medicare program to coercing mentally ill patients to perform sexually explicit acts and manual labor for the defendants' entertainment and benefit.

• One count of making false documents by manufacturing records to respond to investigation of fraud.

• One count of obstructing a federal audit by falsifying documents to support billing for therapy sessions with patients.

• One count of forfeiture for return of $217,000 the Kaufmans received through fraudulent billing of Medicare.

KEY PLAYERS

ARLAN KAUFMAN:

Holder of a doctorate in social work, he operated with his wife two group homes for mentally ill adults in Newton. He was indicted on 34 criminal counts, some of which were tied to victimization of patients. A trial is set for October in Topeka.

LINDA KAUFMAN:

A registered nurse who joined with her husband to manage the family's group homes in Newton for the mentally disabled. She was indicted on counts identical to Arlan Kaufman's, with both facing 325 years in prison and $8.5 million in fines.

T. WALTON:

The Newton police detective -- a New York native working in the heartland of Kansas -- who committed

3-8

himself in early 2004 to befriending patients at the Kaufman group home as part of an effort to breathe life into an investigation of the business.

PHILL KLINE:

The former Kansas House member has been Kansas attorney general since 2003. He was part of a coalition of local, state and federal authorities that took responsibility for an investigation of the Kaufmans that led to a 34-count federal indictment of the couple.

ROCKY NICHOLS:

Executive director of the Disability Rights Center of Kansas, a nonprofit organization that seeks to protect Kansans with mental or physical disabilities. The Topeka-based center took key legal actions to free a female patient from a Kaufman residential facility.

TIM CARPENTER:

Carpenter, 43, of Lawrence, has been a special projects reporter with The Topeka Capital-Journal since February 2004. He has been a reporter in Kansas for nearly 20 years, working at the Lawrence Journal-World and for United Press International. In recognition of articles published in The Capital-Journal during 2004, Carpenter was awarded the Victor Murdock Award from the Kansas Press Association and the Burton W. Marvin News Enterprise Award by the William Allen White Foundation.

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MORE

Breaking down doors to a human nightmare

By Tim Carpenter
The Capital-Journal

NEWTON -- Detective T. Walton had a hunch residents of two group homes for the mentally disabled were being mistreated.

Walton, head of the Newton Police Department's investigation division, acquired a routine for delving into activities at both dilapidated residences near downtown Newton. He would regularly make the short drive from police station to group home, knock on the door and try to talk his way inside. He was often met with less warmth than most people extend to door-to-door vacuum cleaner salesmen.

The detective would then cruise to the other group home, where the eviction double-play was ordinarily completed.

"They wouldn't answer the door or, if they did, they wouldn't let me in," Walton said, slicing through each word in a manner that divulged his New York roots.

Nick Krug/The Capital-Journal
Newton police Detective T. Walton was consistently denied entry to the group homes of Arlan and Linda Kaufman, but his persistence finally paid off.
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To the untrained eye, Walton's strategy was a copious waste of time. But the detective trusted his instincts. He was following the innate path he took when clearing an innocent man of murder in Newton a few years back.

Walton reasoned perseverance was key to breaking the stalemate. He kept at it for months. The mentally ill patients the detective encountered at the group homes owned and supervised by Arlan D. and Linda J. Kaufman were well-coached. The Kaufmans had ordered their patients to give outside authority figures the brushoff. If anyone resisted expulsion, the clients were to immediately summon the Kaufmans by telephone.

Walton got a taste of this rapid-deployment system when he lingered one day at the group home at 321 W. 7th St.

Mr. Kaufman, a clinical social worker, and Mrs. Kaufman, a registered nurse, charged onto the property as if responding to a three-alarm fire. Proprietors of this private dominion for the mentally afflicted got right to the point: The uninvited were unwelcome. Walton's badge meant nothing. He was given the boot and urged not to show his face again.

Walton declined to back off. He refused to repeat sins of the past.

EDITOR'S NOTE: Topeka Capital-Journal reporter Tim Carpenter sp

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 4

state's dealings with a Newton couple accused of mistreating their clients, enslaving them and having them perform sexual acts, and bilking the federal government of $217,000. What follows is the second of a three-part series detailing how a coalition of agencies broke the code of silence at the couple's group homes. COMING TUESDAY:

Curing a system that allowed disabled people in a Newton group home to be victimized for up to 20 years requires a gut check by monitoring agencies and better public appreciation of mental illness.

SUNDAY'S STORY: Broken trust -- Homes drew years of complaints
His commitment was built upon awareness that federal investigators seized a collection of videotapes in 2001 from the Kaufmans' own residence that captured patients engaging in peculiar sex acts during so-called therapy sessions. The detective pressed ahead because he knew that a 1999 investigation by Butler County sheriff's deputies found mental patients from the group homes performing chores in the nude on a remote farm owned by the Kaufmans.

A woman's cry for help

In a scene that appears to have crept from the pages of a paperback detective novel, Walton's shoe-leather approach broke the Kaufman code of silence.

Walton was stunned in February 2004 when an elderly Kaufman patient welcomed him into the 7th Street group home.

Once in the living room, the lawman was introduced to a female patient in her 50s who claimed Mr. Kaufman, while serving as her legal guardian, landlord and therapist, had victimized her for decades.

"She tells me some bizarre stories about things they do," Walton said.

Then she told Walton, "I want to go home."

The detective's heart raced. He recognized that this woman, if she had the courage to challenge the Kaufmans, could pull the cloak off these secretive group homes. He later learned that the Kaufmans responded to this breach in security by punishing the female patient for speaking out.

The Newton police detective didn't run to the Kansas Department of Social and Rehabilitation Services with his findings. This case required a new approach.

Walton funneled his information directly to the office of Kansas Attorney General Phill Kline, who sought assistance of the Disability Rights Center of Kansas.

Rocky Nichols, executive director of the Topeka-based center, said the organization's investigation produced a finding that there was probable cause to believe the female patient was being victimized. The center's attorneys then used their authority under federal law to obtain an emergency court order suspending Mr. Kaufman's guardianship of the freedom-seeking woman identified by the center as "Pam."

On the day in May 2004 in which Walton and the center's attorneys went to the group home with the change-of-guardianship court order in hand, Mr. Kaufman scoffed at the idea Pam had the temerity to obtain legal representation. While absorbing shock of that reality, Mr. Kaufman was given an ultimatum. Walton told Mr. Kaufman to unlock the front door or have it kicked in.

4-2

Mr. Kaufman became flustered. The therapist insisted on reading the court order. He then reread the document. He claimed his personal attorney had to weigh in on the matter. Mr. Kaufman thought his attorney should be given a day or so to come up with a response.

Walton didn't budge, telling Mr. Kaufman: "It's not tomorrow. It's right now."

Mr. Kaufman finally conceded there was nothing he could do to stifle Pam's freedom cry. The patient who spent more years in a Kaufman home than any other patient, who came to Newton seeking contentment but found confinement, walked out the front door for the last time.

"She was so happy," Walton said. "She was dancing around on the porch. She couldn't believe this was going on."

Landing a star witness

Leg work by Walton, coordination by the Kansas attorney general's office and intervention by the Disability Rights Center presented federal prosecutors with something their search warrants had yet to produce -- a real-time, insider perspective of a Kaufman group home.

Local, state and federal officials had fiddled with the Kaufman case for years. Their efforts ran from searing hot to icy cold. Investigation was followed by idleness.

"All the parties who had some role in this were struggling with what their jurisdiction was and were hoping that some other jurisdiction or some other agency would handle it," said SRS Secretary Gary Daniels, who assumed the agency's top job following the Kaufmans' arrest. "That's probably why it slipped through the cracks."

The Kaufman group homes had stayed open despite seizure at the Kaufmans' private residence in 2001 of more than 30 tawdry videotapes by agents of the U.S. Department of Health and Human Services. The tapes, according to descriptions obtained from law enforcement and state officials, showed the Kaufmans conducting nude therapy sessions in which patients engaged in sexually explicit conduct. There was group masturbation, shaving of pubic hair and body massages. Mr. and Mrs. Kaufman coordinated the videotaping project, law enforcement officials say.

Removal of Pam from the Kaufman group home injected urgency into the federal government's probe of the Kaufmans' affairs.

"We got the first person out, and the rest fell into place," said Nichols, Disability Rights Center director.

In October, two dozen agents of the Federal Bureau of Investigation served warrants at the group home on 7th Street and the other facility at 119 W. 8th St. They also hit the Kaufmans' personal residence on Grandview Avenue. Mr. Kaufman, the balding 68-year-old recipient of a doctorate in social work, and Linda Kaufman, a 62-year-old mother of three grown children, were taken into custody.

The Kaufmans' group home doors were locked. All six group-home clients were relocated.

The Disability Rights Center, a federally funded nonprofit organization that advocates on behalf of Kansans with mental or physical disabilities, accompanied the FBI on the raid. The center also was instructed by a judge to guard the civil rights of Kaufman home residents forced to move to new facilities.

4-3

Nichols said not all Kaufman patients were pleased by the intrusion. Two became combative when informed they had to go. Their behavior, Nichols said, resembled actions of people stricken with Stockholm Syndrome. It's the label given a mental coping mechanism used subconsciously by victims of trauma. The condition can surface among victims of physical or mental abuse who dissociate their own pain, anger or helplessness by forming an attachment to their tormentors.

"The Kaufmans created an environment where these people felt they could only trust the Kaufmans," said Lisa Krigsten, an attorney in the U.S. Department of Justice's civil rights division.

Fraud, slavery, nudity

The Kaufmans were thrown onto unfamiliar terrain -- under arrest, locked up, eye-balling hard time. They wore leg shackles for a court appearance in Wichita.

The original charge against the couple was involuntary servitude, which amounted to imposition of slavery on a client.

A federal grand jury in Topeka amended the indictment against them to bring the total to 34 criminal counts. That thicket of charges includes health care fraud, mail fraud, making false writings, forced labor, involuntary servitude and obstructing a federal audit. The federal government seeks from the Kaufmans return of $217,000 in Medicare payments for treatment that prosecutors assert didn't occur or couldn't be documented.

The conspiracy count against the Kaufmans alleges, among other things, that mentally ill patients were coerced into performing sex acts for the couple's entertainment.

The Kaufmans pleaded not guilty to it all. Through their attorneys, they declined interview requests.

James Fletcher, an attorney and a brother of Mrs. Kaufman, said the couple was being forced to defend themselves against outrageous, spurious charges.

"A lot of it (is) made up -- a lot of false allegations," Fletcher said.

A pretrial hearing for the Kaufmans is set for August with U.S. District Court Judge Sam Crow. The trial is scheduled for October in Topeka but could be delayed.

Nichols, of the Disability Rights Center, said the case begs for justice in the courtroom. He said the situation also demands reckoning by federal, state and local agencies -- even his own organization -- that could have played a bigger role in serving the interests of two dozen patients who lived at Kaufman facilities since the 1980s.

"These people had their human and civil rights violated for over 20 years," Nichols said.

Local police in Newton were called to the group homes multiple times in response to disturbances among residents but didn't make headway on the Kaufman case until 2004. SRS received at least a half-dozen complaints about exploitation of Kaufman clients but repeatedly tried to shift responsibility to others. Investigation by federal authorities of the Kaufmans' business dealings unearthed hours of videotape documenting what appeared to be mistreatment of male and female patients, but prosecutors took years to bring an indictment.

4-4

The Kaufmans did have their professional licenses suspended by the state, but operation of the group homes was never interrupted -- not even temporarily -- prior to the Kaufmans' arrest in October.

"It's gut-wrenching," Nichols said. "How did this happen?"

Missed opportunities

SRS administrators concentrated from the late 1980s to the early 1990s on convincing the Kaufmans to license their group treatment homes with the state. Mr. Kaufman resisted, advancing his challenge of that SRS edict to the Kansas Supreme Court.

Justices found for SRS in 1991, but the Kaufmans continued to elude close state scrutiny by reducing the number of residents at each group home to four. At that time, the minimum required for state licensing was five.

SRS officials were painfully aware of the statutory loophole employed by the Kaufmans but didn't try to close that policy fissure.

A few months after the Kaufman scandal erupted, the 2005 Legislature overwhelmingly passed a bill lowering the group home licensing limit to two. If enacted earlier, it would have forced the Kaufmans to choose between going out of business or obtaining a license that brought with it greater state oversight.

Left to their own devices, the Kaufmans went about creating a videotape collection of nude therapy sessions with patients. Federal prosecutors allege in court documents that Mr. Kaufman was so proud of this videotaped material that he offered copies to the American Nudist Research Library in 1998.

Staff at the private library in Kissimmee, Fla., declined.

In Newton, local county prosecutors couldn't figure out a way to make use of the tapes either.

Harvey County Attorney David Yoder, who started in that job during 2002, said the videos didn't offer the kind of ironclad evidence that would make charges of sexual battery stick against the Kaufmans.

Yoder said that, while the tapes were dated 2001 or before, there was no way to prove in court that events actually occurred at the time reflected on labels. Video could have been shot five, 10 or 15 years earlier, which would have been well beyond the reach of the state's two-year statute of limitations.

Prosecution also would have been complicated by the patients' mental disabilities if called to testify in court, Yoder said. And, he said, the Kaufmans did everything in their power to thwart investigation of the group homes.

"The Kaufmans were not being cooperative," Yoder said. "We were getting stonewalled."

SRS general counsel John Badger said the agency's staff had access during 2001 to videotapes of purported nude therapy among Kaufman clients.

An SRS internal report of interaction with the Kaufmans indicates seven tapes, from nearly three dozen confiscated by federal agents from the Kaufmans' residence, were provided to SRS staff. An agency investigation of "seven residents involved in (the) videotapes" was opened, but the SRS probe never advanced to the point of interviewing possible victims.

4-5

The state's Behavioral Sciences Regulatory Board did take steps in 2001 to revoke Mr. Kaufman's social work license based on contents of nude therapy videotapes.

Betty Wright, an attorney for the Kansas State Board of Nursing, said she couldn't explain why the nursing board didn't act until 2004 to seek revocation of Mrs. Kaufman's nursing license. Mrs. Kaufman's case before the board was stayed, pending conclusion of criminal proceedings in federal court.

Walton, of the Newton Police Department, said he always held out hope the tapes might prompt federal charges of sexual abuse against the Kaufmans.

"My thought was that they are going to follow through with this and this will be taken care of," the police detective said. "Later, I learned those tapes had gone to Washington and then, of course, we had 9/11. That took precedence over this kind of stuff. It kind of got lost."

Ethical treason

Social welfare faculty at three universities in Kansas said treatment of patients at Kaufman group homes appeared to violate the golden rule of health professionals -- do no harm.

Daniel Lord, director of the marriage and family therapy program at Friends University in Wichita, said the Kaufmans injected "trauma" into the lives of clients, assuming allegations contained in the federal indictment were accurate.

"It should not be called therapy," he said. "My goodness sakes. It's just almost hard to conceive. It's just inexcusable."

Rick Spano, associate dean of The University of Kansas' school of social welfare and a teacher of ethics in clinical practice, said health professionals should understand that treatment of mental illness that centered on patients being nude wasn't credible.

"It would be hard to make an argument in any model of therapy that I am aware of that there is a connection between nude therapy and clients' best interests," Spano said.

Professional associations don't endorse care driven by sexual desires of a therapist or counselor, said Mark White, associate professor of family studies and human services at Kansas State University.

He said ethical codes of conduct go as far as instructing therapists to avoid "dual" relationships with clients. For example, it would be improper for the grade school teacher of a therapist's child to also receive mental health services from that therapist. Mr. Kaufman's service as landlord, bookkeeper, therapist and guardian of patients created a boiling pot of ethical mischief, White said.

"That's a problem," he said. "And sex? It is expressly forbidden."

Krigsten, a federal prosecutor involved in the case, said the Kaufmans controlled their patients. The federal indictment charges the Kaufmans:

• created a "climate of fear" to keep clients under their control.

• threatened patients with isolation, dehydration and institutionalization.

• activated a stun gun on the testicles of a group home resident.

• punished clients for violating rules by taking away clothing.

• discouraged patients from contacting family.

• exerted unusual influence over clients' medications and finances.

"The level of control these people had on these chronically ill patients was complete," Krigsten said.

Won't think the worst

If convicted of all counts, the Kaufmans face 325 years in prison and $8.5 million in fines.

They've been out of jail since November but wear sophisticated tracking monitors and leave their Newton home only with court permission.

Gordon Smith, pastor of Faith Mennonite Church in Newton, which the Kaufmans attend, said he joined with deacons of the church who do their best to meet the Kaufmans' personal needs.

"As a church, we offer moral support, spiritual support and prayer support to them," Smith said.

Smith said he wasn't concentrating on questions of the Kaufmans' guilt or innocence. He said it was the church's proper role to seek relief of pain felt by the Kaufmans and anyone who feels they were harmed while under the Kaufmans' care.

Attorney James Wyrsch, who briefly represented the Kaufmans in the federal case, said the couple demonstrated deep regard for the welfare of their patients. On the day federal agents closed the group homes, some clients were adamant in not wanting to leave the Kaufmans' fold.

"They (Kaufmans) are not dangerous to anyone," Wyrsch said. "These are gentle people. They're churchgoing people."

The Kaufmans apparently sensed danger from investigation of their conduct. The federal indictment says the Kaufmans sold three properties in Newton and the farm near Potwin to their three children within two weeks of the 2001 federal raid on their personal residence.

Sale price of each: $1. The transaction was designed to shield from the courts property with a cumulative appraised value of nearly $250,000.

One-time Kaufman patient Mary Odem, an 83-year-old former university professor, told the Newton Kansan that she lived in Kaufman group homes for 16 years without witnessing mistreatment of patients.

Removed from the Kaufmans' care in 2004, Odem said thinking of the Kaufmans behind iron bars brought tears to her eyes.

"It's like a death in the family," Odem said.

KEY PLAYERS

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A federal grand jury in Topeka indicted Arlan D. Kaufman, 68, and Linda J. Kaufman, 62, both of Newton, on 34 criminal counts regarding their operation of residential group homes for mentally ill adults.

The Kaufmans operated the treatment homes in Newton for more than 20 years. Both are free on bond, pending a jury trial scheduled for October in Topeka.

If convicted on all counts, the Kaufmans face 325 years in prison and $8.5 million in fines.

The indictment:

• Sixteen counts of health care fraud tied to submitting false claims to Medicare for services not rendered or not documented.

• Nine counts of mail fraud for using the U.S. Postal Service to send fraudulent invoices and to receive payment from patients' families.

• Three counts of holding group home residents in a condition of involuntary servitude.

• Two counts of forcing residents to perform labor.

• One count of conspiracy. This covers a range of allegations from bilking the federal Medicare program to coercing mentally ill patients to perform sexually explicit acts and manual labor for the defendants' entertainment and benefit.

• One count of making false documents by manufacturing records to respond to investigation of fraud.

• One count of obstructing a federal audit by falsifying documents to support billing for therapy sessions with patients.

• One count of forfeiture for return of $217,000 the Kaufmans received through fraudulent billing of Medicare.

ARLAN KAUFMAN:

Holder of a doctorate in social work, he operated with his wife two group homes for mentally ill adults in Newton. He was indicted on 34 criminal counts, some of which were tied to victimization of patients. A trial is set for October in Topeka.

LINDA KAUFMAN:

A registered nurse who joined with her husband to manage the family's group homes in Newton for the mentally disabled. She was indicted on counts identical to Arlan Kaufman's, with both facing 325 years in prison and $8.5 million in fines.

T. WALTON:

The Newton police detective -- a New York native working in the heartland of Kansas -- who committed himself in early 2004 to befriending patients at the Kaufman group home as part of an effort to breathe life into an investigation of the business.

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PHILL KLINE:

The former Kansas House member has been Kansas attorney general since 2003. He was part of a coalition of local, state and federal authorities that took responsibility for an investigation of the Kaufmans that led to a 34-count federal indictment of the couple.

ROCKY NICHOLS:

Executive director of the Disability Rights Center of Kansas, a nonprofit organization that seeks to protect Kansans with mental or physical disabilities. The Topeka-based center took key legal actions to free a female patient from a Kaufman residential facility.

TIM CARPENTER:

Carpenter, 43, of Lawrence, has been a special projects reporter with The Topeka Capital-Journal since February 2004. He has been a reporter in Kansas for nearly 20 years, working at the Lawrence Journal-World and for United Press International. In recognition of articles published in The Capital-Journal during 2004, Carpenter was awarded the Victor Murdock Award from the Kansas Press Association and the Burton W. Marvin News Enterprise Award by the William Allen White Foundation.

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MORE

Broken trust -- Homes drew years of complaints

Video evidence and former patients' stories paint a disturbing picture of life inside Arlan and Linda Kaufman's group homes for the mentally ill

By Tim Carpenter
The Capital-Journal

NEWTON -- Lynn K. remembers sleeping naked on the floor beneath a dirty hunk of carpet in the "Isolation Room."

Her door was locked from the outside. A bucket substituted as a toilet. There was no furniture. Lynn's belongings were kept elsewhere in the two-story house that served as a private group home for adults suffering persistent mental illness.

Lynn said the most frequent visitor to this cell-like space was Arlan D. Kaufman, part of a husband-and-wife team that operated two unlicensed treatment facilities in this city of 19,000. At least once a day, Mr. Kaufman entered her dark chamber. The therapist was clothed. The patient remained nude. They would talk. About what, Lynn can't precisely recall.

She does remember submitting to his vision of therapy

"He made it sound OK," said Lynn, who asked that her last name not be published. "The fact he was paying one-on-one attention was really good. I thought I was special."

Nick Krug/The Capital-Journal
This home at 119 W. 8th St. in Newton, purchased in 1979, was one of two operated by Arlan and Linda Kaufman. Neither was licensed by the state.
Click here to check for reprint availability.

Lynn lived about two years in the late 1980s among mentally impaired adults under the care of Mr. Kaufman and his wife, nurse Linda J. Kaufman. What the Kaufmans' residential facilities lacked in opulence, they made up in longevity. The run-down group homes were open for two decades in this railroad and farming town 130 miles southwest of Topeka.

However, information surfacing in the aftermath of the Kaufmans' arrest by federal agents in October paints a grotesque picture of life in the group homes. It appears Mr. Kaufman's interest in seeing Lynn naked was routine rather than rare.

EDITOR'S NOTE: Topeka Capital-Journal reporter Tim Carpenter spent seven weeks investigating the state's dealings with a Newton couple accused of mistreating their clients, enslaving them and having them perform sexual acts, and bilking the federal government of $217,000. What follows is the first of a three-part series detailing how a coalition of agencies broke the code of silence at the couple's group

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 5

homes.

The city of Newton was established in 1871 and was named by a group of Santa Fe Railroad stockholders after their hometown of Newton, Mass.

Newton is located about 25 miles north of Wichita.

• Population (year 2000): 17,190 Males: 8,296 (48.3%), Females: 8,894 (51.7%)

• County: Harvey

• Land area: 9.6 square miles

• Median resident age: 36.9 years

• Median household income: $38,236 (year 2000)

• Median house value: $69,200 (year 2000)

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Carpenter, 43, of Lawrence, has been a special projects reporter with The Topeka Capital-Journal since February 2004. He has been a reporter in Kansas for nearly 20 years, working at the Lawrence Journal-World and for United Press International. In recognition of articles published in The Capital-Journal during 2004, Carpenter was awarded the Victor Murdock Award from the Kansas Press Association and the Burton W. Marvin News Enterprise Award by the William Allen White Foundation.
There is evidence other patients faced situations more twisted than any experienced by Lynn. The Kaufmans' clients performed sex acts -- individually and in groups -- that were captured on videotape. One area of a group home used frequently for nude therapy was christened the "Romper Room."

Just as sobering is an internal report by the Kansas Department of Social and Rehabilitation Services that was obtained by The Topeka Capital-Journal. That document indicates state social workers were aware of problems at Kaufman group homes more than 20 years ago and that SRS staff was in possession of videotape evidence of possible sexual abuse in 2001. Despite inquiries by SRS, the agency never took action to alter living conditions of disabled patients in the Kaufman group homes.

Kansas Attorney General Phill Kline said the record shows SRS bungled opportunities to deal with alleged misconduct by the Kaufmans.

"Those agencies that are designed and given the mission to protect the vulnerable failed," he said.

SRS Secretary Gary Daniels said the state agency he leads didn't deserve full blame for a case that "slipped through the cracks."

"Everyone who was involved," Daniels said, "at some point or other had some responsibility to jump up and down and yell, 'Foul!' "

Handcuffed, shackled

Interviews with dozens of people, analysis of internal and public state documents, examination of federal court records and review of detailed summaries of videotaped therapy sessions conducted by the Kaufmans gives voice to assertions that oversight of Kaufman group homes fell short of the ideal.

The paper trail offers insight into why authorities have accused the couple of subjecting patients to years of emotional trauma, sexual torture, medical malfeasance and financial misconduct.

Kline urged SRS early last year to take a fresh run at investigating the Kaufmans. SRS officials visited one of the group homes and spoke to two patients, but otherwise preferred the comfort and familiarity of the sidelines.

That sparked emergence of an unusual collaboration among Newton police, a Kansas disability rights group, the state's attorney general and the federal government. The joint venture went to work on the Kaufmans. Within months, the Kaufmans' world changed.

In October, agents of the Federal Bureau of Investigation swarmed into Newton. Both of the Kaufman group homes were closed. Patients were transferred to alternative facilities. The Kaufmans were arrested for forcing a patient into involuntary servitude -- slavery.

A federal grand jury in Topeka later churned up international headlines by expanding the indictment against the Kaufmans to include 34 criminal counts. Sixteen counts of Medicare fraud and nine counts of mail fraud are linked to an allegation the Kaufmans bilked the federal government out of $217,000

from 1991 to 2000. The indictment alleges manufacture of false documents, obstruction of a federal audit, forced labor, involuntary servitude and participation in a broad conspiracy involving coercion of patients to perform acts of a sexual nature.

A judge set Mr. Kaufman free on $200,000 bond. Mrs. Kaufman walked out of jail on $150,000 bond. Both wear electronic monitors and have been primarily confined to their Grandview Avenue residence for seven months.

Friends in contact with the Kaufmans say news reports that depict the couple as voyeuristic freaks were difficult for the defendants to swallow.

Nick Krug/The Capital-Journal
The Kaufmans also operated a group home at 321 W. 7th St. in Newton, which was purchased in 1976. Both were closed in October after the couple was arrested.
Click here to check for reprint availability.

"I experienced them as good people," said Gordon Smith, minister of Faith Mennonite Church, to which the Kaufmans belong.

Attorney Tom Haney, of Topeka, described the Kaufmans as "hardworking people" who devoted many years of their lives to helping the mentally ill. Instead of deserved praise, Haney said, the couple faces a 325-year sentence in a U.S. penitentiary.

"When the actual truth comes out ... it's going to be entirely different," said Haney, who represents Mr. Kaufman.

Chris Joseph, of Topeka, is lead attorney for Mrs. Kaufman. Neither of the Kaufmans was allowed to be interviewed.

The fate of Mr. Kaufman, 68, and Mrs. Kaufman, 62, will be determined by a U.S. District Court jury in Topeka. A pretrial hearing is set for August and the trial for October.

Activists have seized upon the case to justify demands for an overhaul of Kansas' system for protecting people with acute mental illness.

"There was absolutely no accountability," said Audrey Auernheimer, of Salina, who serves as legal guardian of a woman who was a Kaufman patient until 2004.

Unlicensed, unregulated

SRS scrambled after arrest of the Kaufmans to produce a report of the agency's involvement with the group homes in Newton. The timeline prepared by SRS revealed what the agency achieved as well as what it didn't accomplish.

The report shows SRS made initial contact with the Kaufmans after the Kansas Department of Health and Environment forwarded a report on "poor living conditions" at Kaufman group homes in 1984. An SRS

Nick Krug/The Capital-Journal

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adult service supervisor confirmed "numerous problems," according to the report.

In 1999, a woman reported seeing naked adults working at a farm owned by the Kaufmans in Butler County east of Potwin. Sheriff's deputies found two of the couple's patients performing tasks in the nude. No charges were filed in the incident, but a report later was forwarded to state agencies.
Click here to check for reprint availability.

The agency reacted to that finding by sending Mr. Kaufman a letter reminding him that residential care homes were supposed to be licensed by the state. While SRS was on solid legal ground in urging licensing, the social welfare agency also knew it didn't have authority to sanction the Kaufmans for noncompliance.

Mr. Kaufman's refusal to comply foreshadowed a legal battle that went to the Kansas Supreme Court.

Attorneys for the Kaufmans led an unusually aggressive fight to demonstrate the family's group homes at 119 W. 8th St. and 321 W. 7th St. weren't subject to state licensing. But their arguments weren't persuasive enough to prevent the Kaufmans from losing their licensing appeal before an SRS hearing panel. They also lost cases in district court and before the Supreme Court.

With SRS focused on convincing the Kaufmans to license their care facilities, little notice was taken of the fact that Mr. Kaufman's professional license to practice as a clinical social worker in Kansas lapsed in 1979.

Lack of this credential didn't impede Mr. Kaufman from offering himself to families and referral organizations as an authority on mental illness. And it didn't alter Mr. Kaufman's insistence that people refer to him as "Dr. Kaufman."

Kaufmans had a dream

Mr. Kaufman graduated from Newton High School in 1954 and earned a degree from hometown Bethel College in 1960. He completed a master's degree in social work at The University of Kansas from 1962 to 1968. He added a doctorate of social work in 1976 from Ohio State University.

He was a social worker at Family and Children's Service in Kansas City, Kan., and part of the staff at Prairie View mental health center in Newton. He also served as chairman of the social work department at Bethel.

Mrs. Kaufman was born in Louisville, Ky., but grew up in Florissant, Mo. She graduated from Normandy High School in 1961 and three years later became a registered nurse through the school at St. Luke's Hospital in St. Louis.

The Kaufmans began dreaming of opening a private treatment center for the mentally ill around 1972, according to information Mr. Kaufman provided the state during the licensing squabble.

The couple's vision of a group home with a "family-style" living environment materialized at a snail's pace. Since the center wasn't given an official name during early years of development, local agencies and referral sources started calling it "Kaufman's house."

The name stuck and the Kaufmans incorporated the business as Kaufman House Residential Treatment Center in 1980. The facility was never licensed by the state and, at the time of inception, Mr. Kaufman didn't even possess a social work license.

Mr. Kaufman informed the state they welcomed male and female clientele and that "some innovative

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therapy programs" would be deployed at the group homes. Nothing in that record specified that patients would routinely participate in nude therapy.

"Most patients are between 18 and 35 years old," Mr. Kaufman said in the report. "Patients who cannot function in an open setting, who do not have minimal social skills, whose primary problem is drug abuse or who need 24-hour supervision are not admitted."

No alarm was sounded about Mr. Kaufman's social welfare license until Mary Ann Gabel, then-executive secretary of the state Behavioral Sciences Regulatory Board in Topeka, notified the state attorney general's office that Mr. Kaufman had practiced for the past eight years without benefit of the credential.

After being contacted by the state, Mr. Kaufman applied for a new license in 1988. The state board granted the renewal but came to regret that move. The board took action 13 years later to revoke Mr. Kaufman's social work license after declaring him a threat to all clients he professed to be aiding. The board's conclusion was based on Mr. Kaufman's conduct with patients on videotapes seized by federal agents from the Kaufmans' home in Newton.

SRS wins, steps aside

With an appeal of the SRS licensing order pending before the Supreme Court, the Kaufmans didn't shy away from playing hardball with SRS. The Kaufmans filed a civil lawsuit against the state agency in 1990.

The group home owners claimed SRS employees were guilty of trespassing, invasion of privacy and emotional injuries to patients during a visit to the group homes. Essentially, the Kaufmans' lawsuit was designed to strike SRS with enough force to inhibit inspectors from stepping into the group homes again.

In 1991, the Supreme Court ruled SRS acted properly by asserting the Kaufman group homes ought to be licensed. The court victory offered the agency the kind of big stick it needed to rein in the Kaufman homes.

That's not how it played out.

After losing in court, Mr. Kaufman maneuvered around the state's licensing statute by simply reducing the patient population at both group homes to four. The threshold for licensing residential care facilities in Kansas at that time was a minimum of five.

This turn of events prompted a decision at SRS to shed the millstone in Newton. A memorandum instructed SRS staff to suspend "any further licensing efforts" and refer complaints about Kaufman care facilities to law enforcement.

"We believe Dr. Kaufman may again resort to spurious accusations against our staff to avoid regulation and (we) are therefore reluctant to expose (staff) to further lawsuits or damage to them professionally," the memo says.

Attorneys working on behalf of SRS reached an out-of-court settlement on Mr. Kaufman's lawsuit. SRS paid Mr. Kaufman $8,250 in 1993 to make his case go away.

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SRS also passed the buck to law enforcement when allegations surfaced in 1995, 1996 and 1997 about Kaufman patients engaging in sex therapy.

Nude therapy tapes

In 1999, a woman driving on a gravel road east of Potwin reported to the sheriff's department in Butler County that naked adults were working outdoors at a farm owned by the Kaufmans.

Deputies sent to the scene arrived to find two nude Kaufman patients performing carpentry and other chores in the barn lot.

No charges were filed in that incident, but other dominos were nearing a tipping point.

The federal Office of Inspector General launched Medicare and Social Security investigations. That prompted a raid by federal agents in 2001 of the Kaufmans' private residence in Newton. The objective was seizure of financial records -- bank receipts, medical reports, computer billings, time sheets.

Agents were startled to discover 34 videotapes that captured sights and sounds of the Kaufmans' approach to addressing mental disease.

Two written summaries of contents of the videotapes, one obtained through a Kansas Open Records Act request to the Kansas Board of Nursing and the other received from law enforcement officials, confirm Mr. Kaufman was shown on one tape urging patients to masturbate and urinate in front of other patients. On another tape, Mr. Kaufman instructed patients, male and female, to shave pubic hair of clients of the opposite sex.

The camera caught patients and Mr. Kaufman discussing sexual fetishes and fantasies, the summaries say. Close-up shots were taken of clients' penis and vaginal areas. According to reports, Mr. Kaufman is shown touching the genitals of male and female clients. A group of patients was filmed hula-hooping in the nude, the summaries say.

According to the reports, a male patient was videotaped while forcing objects up his anus. Mr. Kaufman is captured on tape urging a client to stick a paint brush up his urethra, a summary says. The taping caught a group discussion of sex toys and group massage, during which Mr. Kaufman said, "I'm just going to enjoy watching you."

The summaries indicate the Kaufmans relied on Scripture to justify their interpretation of therapy. That insight was drawn from a taped conversation in which a male patient expressed consternation about instructions for shaving private areas of female clients.

"There is a group discussion," the summary says. "Arlan Kaufman discussed how it relates to the 'New Testament.' "

Mrs. Kaufman, who can be seen on three of the videotapes, was aware of subject matter on confiscated tapes. On one video, she was shown working on the Kaufmans' farm with nude patients.

In a statement to the Kansas Board of Nursing, Mrs. Kaufman claimed some tapes chronicled "recreational activities of a group of social nudists." Other recordings, she said, were of Mr. Kaufman's "confidential cognitive-behavioral therapy sessions."

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Still photographs of nude patients also were seized by federal agents in the 2001 search. Some show nude female clients in a hot tub. One snapshot is of a female patient and Mr. Kaufman, both nude, working on a barn.

Credential suspensions

The state Behavioral Sciences Regulatory Board relied on information drawn from at least one videotape to seek revocation of Mr. Kaufman's social work license.

Phyllis Gilmore, executive director of the regulatory board, said she signed the suspension order in 2001 that labeled Mr. Kaufman an "immediate danger" to patients. She said that sanction was the harshest available to the board and hadn't been repeated in Kansas since.

Mr. Kaufman let his social work credential expire rather than challenge the suspension. A professional license isn't a prerequisite for operating a group home for the mentally ill in Kansas.

The internal summary of SRS involvement with the Kaufmans indicates the agency was given access in 2001 to seven videotapes depicting possible victimization of Kaufman patients. After three months of wrestling with the contents of the tapes, which were among the set confiscated by federal agents, SRS staff decided "no further action" was required on the case.

SRS reinforced that position by punting another abuse complaint from a former Kaufman patient to the Harvey County attorney in 2003.

The Kansas Board of Nursing waited until early 2004 to seek suspension of Mrs. Kaufman's nursing license. The board's order alleges she "committed many violations of the nurse practice act." The order states Mrs. Kaufman, a registered nurse since 1967, harbored knowledge that dependent adults residing in Kaufman residential facilities were "sexually exploited."

As in her husband's licensing case three years earlier, Mrs. Kaufman was deemed an "immediate danger" to clients. Final action on her case hasn't been taken by the nursing board.

In reply to the nursing board's emergency suspension order, Mrs. Kaufman wrote, "It is outrageous and indefensible to assert that I pose an immediate danger to the public health, safety and welfare and that the board must protect my six patients from sexual misconduct on my part."

While not raised in deliberations about Mrs. Kaufman's license, former patient Lynn K. said she remembers Mrs. Kaufman's method of monitoring anti-psychotic medications dispensed to patients in her group home. Mrs. Kaufman would place pharmaceuticals on a living room table, Lynn said. Patients walking by could grab a handful of pills whenever convenient, she said.

"We had no idea what we were taking," Lynn said.

She said there were times patients would bump the table and knock pills to the floor. The clients would gather medicine and pile it on the table. Federal prosecutors said in the indictment that this system left patients to "self-administer" medication.

"Haphazardly," Lynn said. "That's how we took our medicine."

'Disturb my sleep'

5-8

Kline, the state's attorney general, tried to convince SRS to launch a new investigation of Kaufman treatment homes in February 2004. Kline was concerned by rumors about the Kaufmans' unorthodox therapeutic techniques and whether Mr. Kaufman was in the ethically dubious position of serving as guardian, therapist, landlord, accountant and victimizer of at least one of his patients.

SRS officials turned aside Kline's appeal by claiming there was insufficient information of wrongdoing to proceed.

That decision guaranteed people with severe mental illness would remain under the Kaufmans' control. That roster of patients included a woman who underwent a purported therapy session -- captured on videotape -- that featured Mr. Kaufman manipulating her pubic area.

"There were issues that would disturb my sleep," said Gilmore, of the Behavioral Sciences Regulatory Board. "It's one thing to do bad things because you believed they were good. He (Mr. Kaufman) was doing bad things knowing that they were bad."

COMING MONDAY:

A Newton detective starts a chain reaction that brings freedom to a mentally ill woman living in a Kaufman group home and provides federal prosecutors a witness to 20 years of victimization.

Tim Carpenter can be reached at (785) 296-3005 and at tim.carpenter@cjonline.com.

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ATTACHMENT B

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 6

Comparison of DRC and APS/SRS Access Authority to Investigate Complaints of Abuse or Neglect

Problem: Hostile, Uncooperative, or Abusive Guardian. Guardian may be the one perpetrating or assisting (ether actively or tacitly) the abuse, neglect or exploitation. For example, at the Kaufman House Mr. Kaufman was the alleged abuser of his ward, and the other guardians uncooperative or were AWOL.

Situation	*Access Sought*	*DRC Authority*	*APS/SRS Authority*
Individual has a guardian, *guardian refuses consent*	**Individual**	Yes. Reasonable Unaccompanied Access, but must terminate interview at individual's request.	No. Can only do so with a court order. Problem: how can SRS convince the court to do this without this information? Protective services includes evaluating need for services, would have to obtain court order to enjoin guardian from interference under 39-1405 (residents) or 39-1437.
	Facility	Yes. Reasonable Unaccompanied Access to public and private places (including private residences)	No. Can only do so with a court order.
	Records	Yes. DRC makes reasonable effort to contact the guardian. If guardian fails to respond or fails to consent or to act on behalf of the individual, DRC still has access authority. 42 U.S.C. §§ 15043(a)(2)(I)(iii), 10805(a)(4)(C).	No. Can only do so with a court order. Problem: how can SRS convince the court to do this without this information? Protective services includes evaluating need for services, may get court order to enjoin guardian from interference under 39-1405 (residents) or 39-1437.
	Conduct ANE Investigation	Yes. Even without a guardians consent, DRC can fully conduct its ANE investigation under federal law.	No. Can only do so with a court order. Problem: how can SRS convince the court to do this without this information?

Problem: No guardian, person with a disability does not appear to have capacity and person does not provide consent.

Situation (a complaint is received in all)	*Access sought*	*DRC Authority*	*APS/SRS Authority*
Individual does not have a guardian, does not appear to have capacity, and ***person does not consent to investigation.***	**Individual**	Yes. Reasonable Unaccompanied Access.	No. Not unless a court order finds that the person does not have capacity and needs a guardian. May petition for appointment of a guardian. § 39-1437(a). May seek court authorization if regarding a resident of a facility 39-1407, May petition for appointment of a guardian if a resident 39-1408.
	Facility	Yes. Reasonable Unaccompanied Access to public and private places (including private residences)	No. Can only do so with a court order.
	Records	Yes. Access to all records 42 U.S.C. §§ 15043(a)(2)(I)(ii), 10805(a)(4)(B).	No. Not unless a court order finds that the person does not have capacity and needs a guardian. May petition for appointment of a guardian. § 39-1437(a). May seek court authorization if regarding a resident of a facility 39-1407, May petition for appointment of a guardian if a resident 39-1408.
	Conduct ANE Investigation	Yes. Even without consent of the individual, DRC can conduct its ANE investigation under federal law (person may or may not talk to DRC, but investigation could be conducted).	No. Not unless a court order finds that the person does not have capacity and needs a guardian. May petition for appointment of a guardian. § 39-1437(a). May seek court authorization if regarding a resident of a facility 39-1407, May petition for appointment of a guardian if a resident 39-1408.

Problem: Person with a disability does not have a guardian, has capacity, but does not consent to the investigation (perhaps because they are being threatened or coerced by the perpetrator).

Situation (a complaint is received in all)	*Access sought*	*DRC Authority*	*APS/SRS Authority*
Individual does not have a guardian, has capacity and *does not consent to the investigation.*	**Individual**	Yes. Reasonable Unaccompanied Access, but must terminate interview at individual's request	No. 39-1437, 39-1407 (resident).
	Facility	Yes. Reasonable Unaccompanied Access to public and private places (including private residences)	No. Can only do so with a court order.
	Records	No.	No. 39-1437, 39-1407 (resident).
	Conduct ANE Investigation	Yes. Even without consent of the individual, DRC can conduct its ANE investigation under federal law (person may or may not talk to DRC, but investigation could be conducted).	No. If the person clearly has capacity, SRS cannot conduct the abuse and neglect investigation without the persons consent.

Select Citations:

"If the department and such officers determine that no action is necessary to protect the adult but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency." § 39-1433(a).

If the complaint is about a resident of an adult care home, medical care facility, or state psychiatric hospital or state institution for the mentally retarded, *"Any . . . agency authorized to carry out the duties enumerated in this act, . . . shall have access to all relevant records." §39-1406*

"The authority of the secretary . . . shall include, but not be limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety or welfare of any resident, subject to any specific requirement for individual consent of the resident." 39-1406 (for IMDs, state ICFMRs, MCFs, & ACHs).

All DRC authority to access facilities and residents comes from: 42 U.S.C. § 15043(a)(2)(H), 45 C.F.R. § 1386.22(f), 42 U.S.C. § 10805(a)(3), and 42 C.F.R. § 51.42(b).

DRC access to facilities for an abuse or neglect investigation does include the opportunity: "to interview any facility service recipient, employee, or other person, including the person thought to be the victim of such abuse, who might be reasonably believed by the system to have knowledge of the incident under investigation . . . ." DD Act regulations, 45 C.F.R. 1386.22(f).

Under the PAIMI regs, reasonable unaccompanied access to facilities and residents includes the opportunity "to interview any facility service recipient, employee, or other persons, including the person thought to be the victim of such abuse, who might be reasonably believed by the system to have knowledge of the incident under investigation." 42 C.F.R. § 51.42(b).

The PAIMI provision regarding access to residents states "Residents include adults or minors who have legal guardians or conservators. P&A activities shall be conducted so as to minimize interference with facility programs, respect residents' privacy interests, and honor a resident's request to terminate an interview." 42 C.F.R. § 51.42(c).

Kansas.com

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Failure

Kaufman case shows need for reforms

Justice finally caught up with Arlan and Linda Kaufman -- but justice took far too long. "State policy and state law failed the victims of the Kaufman House," Rocky Nichols, director of the Disability Rights Center of Kansas, told The Eagle editorial board Tuesday.

He's right. And disabled Kansans and their families deserve better.

The Kaufmans were found guilty this week of abusive treatment of patients under their care over two decades. It's good to know that these exploiters now face years behind bars.

But questions linger that state policymakers must address: Why weren't the Newton couple's crimes discovered sooner -- and how can the state ensure that such abuse never happens again?

In fact, the warning signs were everywhere in this case. As far back as 1984, the Kaufmans were the focus of complaints, and for several years afterward the Kansas Department of Social and Rehabilitation Services pressed them to license their facilities.

Instead, the Kaufmans repeatedly ignored the orders and prevented SRS case workers from even having contact with residents. That should have been a huge red flag.

In 1990 the Kaufmans even sued the SRS. Incredibly, SRS settled out of court, awarding the couple $8,250, and then pretty much washed its hands of the Kaufman House.

SRS failed to act -- and no one else did -- after the Kansas Supreme Court ruled in 1991 that the Kaufman homes must be licensed. How could that happen?

SRS officials claimed they didn't have jurisdiction. But all it would have taken, says Nichols, was a simple regulatory change that should have taken weeks. "They've had 15 years to do that," he notes, but never did.

In the last legislative session, Nichols and Attorney General Phill Kline helped enact legislation that closed some of the legal loopholes. Among the changes: Group homes must now be licensed or face prosecution and closure.

But Nichols says two additional reforms are needed to protect disabled Kansans.

One would prevent a nonfamily care provider such as Kaufman from also being a patient's legal guardian. That's a clear conflict of interest and an invitation to abuse and fraud. Another proposal would establish a new state abuse and neglect unit to coordinate protection services for Kansans with disabilities.

At present, such oversight is fragmented among four agencies: the Kansas Department of Health and Environment, SRS, the attorney general's office and the Center for Disability Rights.

"No one is forcing collaboration," says Nichols.

State lawmakers should make these changes a priority in the next session.

For the editorial board, Randy Scholfield

FEDERAL AND STATE AFFAIRS
Date 2-8-06
Attachment 7