

After a Suicide, Privacy on Trial

- A jury weighs whether Chuck Mahoney's college should have told his parents more

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24 March 2007

The Wall Street Journal

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As Charles and Debi Mahoney watched six men and six women file into the jury box of a Pennsylvania courtroom one evening last August, they clutched hands and tried to remind themselves why they were in court. "Parents sending their kids off to college need to know that their kids aren't safe when they think they are," Mr. Mahoney recalls thinking at the time.

More than four years earlier, their 20-year-old son, Chuck, had hanged himself with his dog's leash in his fraternity house at Allegheny College, in Meadville, Pa. At their son's funeral, the Mahoneys learned that his friends and ex-girlfriend had repeatedly warned college administrators and counselors during his last days that Chuck was a danger to himself. The officials and his college therapist had discussed his crisis -- but no one had alerted the family.

His parents sued for wrongful death in 2003, alleging that Allegheny should have taken more action at the end -- such as breaking their son's confidentiality to get them involved. One of Chuck's fraternity brothers who tried to alert school officials, Michael Fischer, testified that seeing his friend's last days "was like watching a car accident. . . . We knew something was going to happen. We had to try to stop it."

The college maintained that Chuck was never an imminent risk for suicide, so his confidentiality couldn't be breached. He was an adult and insisted the school shouldn't call his parents about his problems, college officials testified. They said violating his privacy would have worsened his situation, and that his parents should have shown more active concern, especially after their son was hospitalized as a suicide risk in his sophomore year. They said Chuck's parents should have gotten their son to sign a waiver sent to all students that would have allowed the college to discuss his situation with the family.

The case was closely watched by colleges and universities across the country, reopening questions about the privacy laws that for 30 years have guided colleges when deciding whether to inform parents about the problems of their sons and daughters.

Last year, the Massachusetts Institute of Technology paid an undisclosed sum to settle a lawsuit by the parents of Elizabeth Shin, whose death in a dorm room fire was ruled a suicide by a medical examiner. The parents alleged that school officials failed to notify them of the emotional deterioration of their daughter. Other lawsuits have challenged schools that required students to leave dorms or campuses after exhibiting suicidal behavior. For college officials, the Mahoneys' case, if successful, threatened to change the rules on students' privacy.

This article is based on an extensive review of court documents, as well as interviews with Chuck's family, several friends, college administrators, and lawyers for all of the defendants. The school therapist, Jacquelyn Kondrot, and other defendants declined to be interviewed.

Chuck Mahoney spent the first 18 years of his life in Burgettstown, Pa., a former mining community about 20 miles west of Pittsburgh. He grew up in the beige and blue house where his parents, both local public school officials, still live. In high school, he was a star athlete, captain of the varsity football and basketball teams. Tall and good-looking, he also was an honors student and vice president of his class.

To his parents, Mr. Mahoney seemed happy to be accepted to Allegheny, a small liberal-arts school in northwest Pennsylvania. His parents say he received a scholarship and they paid the bulk of his other expenses. But almost as soon as Mr. Mahoney arrived on campus to attend a football camp before his freshman year, he began feeling anxious and panicky. He had crying spells, insomnia and fits of uncontrollable shaking.

He called his parents, who say this was the first time they were aware of their son's troubles. "We didn't know if it was an adjustment period between home and college, or if he was overburdened with things going on," says his father.

The parents called their family doctor, who prescribed an antidepressant for their son and recommended that he see a mental-health professional. They then drove the two hours from their home to the school to visit their son, and helped him connect with Ms. Kondrot, the director of the school's counseling center.

Ms. Kondrot asked the younger Mr. Mahoney in their first session if he ever thought about killing himself, according to her notes. She wrote that he "admits to thoughts but denies the ability to act." Ms. Kondrot put him in touch with a psychiatrist who consulted at the college, Lance Besner, who diagnosed Chuck with major depression.

This was the first time Mr. Mahoney had sought professional help. But in court, the defense asserted he told his counselor he had been depressed long before he got to college, cutting himself in junior high and drinking privately in high school. The parents dispute that. The school's lawyer, Kerry Kearney, brought out a history of mental illness in Mr. Mahoney's family: His grandmother had suffered from depression after the death of a baby, and his older sister had an eating disorder and had tried to commit suicide.

During his freshman year, Mr. Mahoney threw himself into his studies, pledged the Sigma Alpha Epsilon fraternity and fell in love with a freshman named Kristen Madden. But he also struggled. He told Ms. Kondrot that he'd "failed at everything," according to her notes, because he was not at an Ivy League school and was an unsuccessful athlete. He showed her some of his writing: "It seems there is not a night, before I go to bed that I do not plead to God to please not let tomorrow come, but it comes and comes."

Ms. Kondrot practiced cognitive behavioral therapy with Chuck, she testified, trying to show him how to challenge thoughts that made him depressed, and found him the names of therapists and crisis hotlines near Burgettstown.

Mr. Mahoney, who wanted to be a lawyer, spent the summer after his freshman year working for a judge near Burgettstown. But after he returned to football camp at Allegheny, Ms. Kondrot called his parents -- with their son's permission -- to tell them he had said he wanted to take all of his drugs and cut his wrists. He was a "high risk" for suicide, she told them. Mr. Mahoney agreed to be hospitalized and signed temporary releases that allowed Ms. Kondrot to talk to his parents and the dean of students about his care.

After five days in a psychiatric ward, Mr. Mahoney's doctors decided he was stable enough to return to college. "He said he felt like a weight had been lifted," his mother says. In the spring of his sophomore year, he earned a 3.85 grade-point average.

But when football camp arrived just before the start of junior year, he passed out while running sprints. He called his parents and, crying, told them he had quit the team and was coming home for a break.

Mr. Mahoney returned to school and signed a policy statement from the counseling center, acknowledging that his confidentiality would be maintained except under "important legally mandated exceptions" such as posing an "immediate threat" to himself or others, including suicide.

School officials said that was the standard Ms. Kondrot was using to decide whether to break Mr. Mahoney's confidentiality. His family's lawyer cited the document at trial to show Mr. Mahoney had understood that his confidentiality could be violated, though he hadn't signed the school's broader privacy waiver of confidentiality sent to all students that allows the school to contact parents on a range of issues.

During the fall, Mr. Mahoney rescued a beagle from the pound in Meadville, named her Gracie, and soon began taking her everywhere he could. But his mood worsened. In early November, Mr. Mahoney broke up with Ms. Madden. Soon afterward, she told Ms. Kondrot that she was worried about Chuck because he had told her and other friends that he wished he were dead. Ms. Madden declined to be interviewed for this story.

By early December, Ms. Kondrot had consulted with several mental-health professionals and determined Mr. Mahoney was again a "high risk" for suicide. She testified that Dr. Besner advised her that month not to break Mr. Mahoney's confidentiality. In his deposition for the trial, Dr. Besner said that the risk of danger was not great enough to override confidentiality. Dr. Besner did not respond to requests for comment.

Another psychologist Ms. Kondrot consulted, Herbert Klions, disagreed; he recommended that she should talk to his parents, according to her notes. Through the school, Dr. Klions declined to comment.

The confidentiality issue would become a central point in the Mahoney family's case as events in the final weeks of Mr. Mahoney's life were revealed. Ms. Kearney, the college's lawyer, told the jury that Mr. Mahoney refused repeated requests by his counselor to allow her to contact his parents or to hospitalize him.

Since 1974, the Family Educational Rights and Privacy Act has protected the educational records of students, including those in college, allowing school officials to notify parents in a "health or safety emergency." At the same time, the therapist-patient privilege is considered crucial to psychotherapy because trust is essential to the process.

In court, Ms. Kearney emphasized that Mr. Mahoney failed to sign the waiver that the school said would allow it to release the federally protected information and discuss any other concerns with parents. She pointed out that Allegheny had sent a letter to the Mahoneys, as it did to all parents, explaining the waiver and asking them to discuss it with their child.

The Mahoneys acknowledge they never discussed that waiver with their son. They said they were familiar with the federal privacy regulation from their own jobs -- she is a high school

guidance counselor, he is a schools superintendent -- and they didn't think it was necessary to press him to sign. "To me, it just dealt with academics," Mrs. Mahoney says. "He always showed us his grades anyway." The Mahoneys also say they always had an open relationship with their son and talked with him almost every day.

Even without a waiver, the Mahoneys point out, the privacy regulation allows schools to contact parents -- as long as they deem there is an emergency. That's essentially correct, according to LeRoy Rooker, the director of the Family Policy Compliance Office at the U.S. Dept. of Education, which administers the rules. "It's a complicated law," he says. "Schools may overreact and think they can't disclose info when they can."

In court, the Mahoneys' lawyer, William D. Phillips, argued the counselor and school not only could have legally notified Mr. Mahoney's parents, but could have hospitalized him or forced him to take a leave of absence. He questioned Ms. Kondrot's qualifications to handle the situation: She had a master's degree in counseling but was unlicensed at the time and had no specific expertise in suicide prevention, he noted. The school countered that a license wasn't required at the time; the counselor applied to the state for one eight days after Mr. Mahoney's death.

Over the Christmas break, Ms. Kondrot tried skirting the confidentiality rules by calling Mr. Mahoney at his parents' home, on Dr. Besner's advice, she testified. She hoped his parents might answer the phone and somehow figure out her call meant they needed to intervene, without her having to say anything directly. But in several tries, she only reached her patient or his 15-year-old brother.

When Mr. Mahoney returned to school in January, his friends soon noticed a change. On Jan. 28, two fraternity brothers warned Ms. Kondrot that he was spending a lot of time alone in his room, drinking heavily. The same day, Ms. Madden told the counselor that Mr. Mahoney was making plans to give away his beloved beagle "if anything happens to me," according a written report by Ms. Kondrot.

The next day, Mr. Mahoney told Ms. Kondrot that he had regular thoughts of suicide and a plan to kill himself by taking sleeping pills. He denied having any pills or feeling suicidal that day. But he admitted that when he wanted to hurt himself, he sometimes didn't tell her. She warned him that she might need to break his confidentiality to protect his health, and he said he understood that, according to her notes.

By early February, Ms. Kondrot consulted with several colleagues about Mr. Mahoney and notified the associate dean of students, Terrence Mitchell, about her concern for a student she called "C.M." She consulted with Dr. Kliens again, who now recommended that Mr. Mahoney be given a leave of absence, according to her notes. She asked for the opinion of another psychiatrist who worked with the school, Gregory Richards. Dr. Richards met with Mr. Mahoney, offered to adjust his medication and hospitalize him, but Mr. Mahoney declined. The doctor testified that he told Ms. Kondrot that because Mr. Mahoney was an adult and opposed involving his parents, he didn't support breaking his confidentiality. Dr. Richards declined to comment for this story.

Mr. Mahoney was spiraling downward. Though he was now dating someone else, when he learned one of his fraternity brothers was dating his ex-girlfriend, he threatened to kill him and had to be physically restrained. Fraternity brothers contacted various administrators at Allegheny. On Friday, Feb. 8, several told another school counselor of Mr. Mahoney's violent mood swings and said they feared he would harm himself or others.

Over the weekend, the president of the fraternity house, Sam Urick, called both the dean of students, Joseph DiChristina, and the associate dean at home, he testified, worried Mr. Mahoney would hurt someone. Another fraternity member sent an email to Ms. Kondrot, the two deans and other staff members to request a meeting: "We as Brothers do not feel qualified to handle this on our own and are therefore seeking assistance." Both deans declined to be interviewed for this article.

The students did not call his parents. "We thought we shouldn't take it upon ourselves as 21-year-olds," says Mr. Urick, now a 26-year-old medical student in Aliquippa, Pa. "The school is your caretaker while you're away at college; we assumed that they would know how to handle it."

At 3:18 a.m. Monday, Feb. 11, Mr. Mahoney wrote Ms. Kondrot an email saying, "i hate living and i hate the prospect of going through another day." Ms. Kondrot received it when she got to work around 9 a.m. and wrote back, offering to meet with him. At 12:39 p.m., he wrote again: "I am sad and angry and alone, alone, alone, alone."

About 15 minutes later, Ms. Kondrot ran into Mr. Mahoney on campus and persuaded him to come to her office, where they talked for about an hour and a half. At one point she started to cry and told him she felt he needed more help than she could provide. Ms. Kondrot asked if Mr. Mahoney had sleeping pills. He told her he had none. When she asked if he was OK, he said he was, and promised to come back to see her the next day. Shortly before 3 p.m., he left for class.

Ms. Kondrot talked to the two deans, debating whether they should call his parents or insist he be asked to take a leave. The deans made no decision, but after a call at 5:10 p.m., her notes say "they are feeling like they need to call his parents."

In her testimony, Ms. Kondrot said she worried that breaking Mr. Mahoney's trust would make his depression worse and that having him removed from campus by force would have been devastating to him. In her notes about him that day, she wrote, "The more people who got involved, the tighter the box became around him."

She testified that she determined that Mr. Mahoney had several "protective factors," including a loving family and a new girlfriend. He had expressed an interest in going to his class that afternoon and had told her he wouldn't hurt himself. She decided he wasn't an immediate risk of suicide.

Sometime late that afternoon, Mr. Mahoney took Gracie's red leash, tied one end around the inside knob of his closet, ran it up over the top of the door, and wrapped the other end around his neck. He then stepped or fell off a milk crate and asphyxiated himself. Fraternity brothers found him at about 6:45 p.m. He left a short note, saying he knew he wasn't getting better. "To my parents, this is not your fault by no means, you were fantastic people and the world should worship you."

The trial last August was held in the Crawford County Courthouse in Meadville, Pa. Mr. Mahoney's parents asked for economic damages of between \$1.8 million and \$7 million -- what they estimated their son would have earned in his lifetime -- and unspecified general damages. Before the trial, Judge Barry Feudale had dismissed the Mahoneys' case against the two deans, leaving as defendants Ms. Kondrot and her employer Allegheny, and Dr. Richards. He ruled the deans had too little knowledge of the situation to be held liable.

On Aug. 31, the jurors deliberated for about three hours. As they returned to the courtroom to deliver their verdict, the elder Mr. Mahoney tried to make eye contact with them. None would look at him.

In Pennsylvania, 10 of 12 votes is sufficient for a civil verdict. The jury voted 11-1 for the defendants.

In interviews, many jurors said that as an adult, Mr. Mahoney was responsible for his own actions. They believed his parents should have recognized how sick their son was after he was hospitalized, and that they had a responsibility to make sure he signed the waiver form that would have freed the school to more easily share information. "If I am flipping the bill for college, you are signing the waiver," says Tom Yoder, 43, a tool-and-die maker. The lone dissenting juror, Barbara Collins Zurovchak, felt the suicide warnings required action. "I believe that safety must trump privacy," the retired high-school teacher says.

Although widely followed by schools and legal experts, the Allegheny case ended up having an impact for what it didn't do. Legal experts say that if the Mahoneys had won the case, this precedent could have chipped away at student privacy rights if schools saw their responsibilities for students' mental health expanding. Administrators might have called on school counseling centers to share more information with them, and more schools might have required students judged potentially suicidal to leave campus, to avoid liability.

Allegheny itself left its policies unchanged, despite a thorough review prompted by Mr. Mahoney's suicide. "We looked at every single thing you can imagine, every dean, every counselor, long before a lawsuit was filed," says Richard Cook, Allegheny's president. But he said the jury's decision supported the college's view that it already was doing all it could to care for its students' mental health.

These days, Gracie, the beagle, likes to sleep in his master's old room in the Mahoney home. The walls are lined with academic and athletic awards. Fiction anthologies share space with footballs on the shelves. About once a week, the elder Mr. Mahoney opens the closet and buries his head in a sweatshirt that belonged to his son, trying to detect the fading scent. "I don't know if I could have saved my son," he says. "But I would have liked the opportunity to try."