



SouthDakota

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MINUTES
Jolene's Law Task Force

Senator Deb Soholt, Chair
Senator Alan Solano, Vice Chair

Second Meeting
2014 Interim
September 15, 2014

Room LCR 1 & 2
State Capitol Building
Pierre, South Dakota

Monday, September 15, 2014

The second meeting of the Jolene's Law Task Force for the 2014 Interim was called to order by Senator Deb Soholt at 10:00 a.m. (CDT) in Legislative Conference Rooms 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representative Peggy Gibson, Representative Jenna Hagggar, Senator Deb Soholt, Senator Alan Solano, Christine Bisek, Cam Corey, Daniele Dosch, Dr. Nancy Free, Ann Larsen, Angela Lisburg, Jolene Loetscher, TateWin Means, Hollie Strand, Virgena Wieseler, and Colleen Winter.

Legislative Research Council staff members present included Amanda Reiss, Senior Legislative Attorney; Roxanne Hammond, Legislative Attorney; Jason Simmons, Senior Fiscal Analyst; and Cindy Tryon, Senior Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office and some can be found on the Legislative Research Council website at <http://legis.sd.gov/Interim/CommitteeDocuments.aspx?Session=2014>. This meeting was web cast live. The archived web cast is available at the LRC website at <http://legis.sd.gov>.

Approval of Minutes

Mr. Cam Corey asked that the minutes of August 5, 2014, be corrected on page 2, line 10, to read Division of Criminal Investigation rather than Department of Criminal Investigation.

A MOTION WAS MADE BY REPRESENTATIVE PEGGY GIBSON, SECONDED BY REPRESENTATIVE JENNA HAGGAR, THAT THE AUGUST 5, 2014, MINUTES BE APPROVED AS CORRECTED. The motion prevailed on a voice vote. *(The August 5, 2014, minutes have since been corrected.)*

Opening Remarks and Introductions

Senator Deb Soholt distributed two documents taken from "The Science of Early Childhood Development" and the Working Paper series from the National Scientific Council on the Developing Child (**Documents #1 & 2**). The documents cover the impact of early adversity on the development of a child's brain. The full report can be found at www.developingchild.harvard.edu/library/.

Child Sexual Abuse Data Elements

NIBRS

Mr. Cameron Corey, Division of Criminal Investigation, Watertown, distributed a document defining the various types of sexual abuse criminal offenses and the National Incident-Based Reporting System (NIBRS) statistics for 2011-2013 (**Document #3**). According to NIBRS, in 2013, 116 South Dakota agencies including DCI, Sheriff's offices, and police departments, provided the following data regarding reported incidents against juveniles: Forcible Rape – 182; Forcible Sodomy – 15; Sexual Assault with an Object – 3; Forcible Fondling – 147; Incest – 13; Statutory Rape – 146. Mr. Corey pointed out that agencies voluntarily report these incidents and that these are reported incidents, not arrests or convictions. Also, the FBI, BIA, and other federal agency cases are not included in these numbers.

In response to a question, Mr. Corey explained that these are numbers of reported incidents, not the number of possible victims. There could be several incidents reported with just one victim. **Ms. Hollie Strand** commented that the advocacy centers work with about 300 cases a year.

NCA

According to the NCA website, "*National Children's Alliance (NCA) is the national association and accrediting body for Children's Advocacy Centers (CACs). Formed in 1988, NCA has been providing support, technical assistance, and quality assurance for CACs, while serving as a voice for abused children for more than 25 years.*" The NCA web address is: www.nationalchildrensalliance.org.

Ms. Angela Lisburg, Avera St. Mary's Child Advocacy Center, Pierre, talked about the National Children's Alliance (NCA) which focuses on case tracking, statistical reporting, and searching. Ms. Lisburg said that the NCA has a program called TRAK (Technology Reaching All Kids). The NCA tracks a child across multiple cases providing team members with electronic reports. Searching this TRAK system can be done by anyone involved in the case.

HHS Annual Report

Ms. Amanda Reiss, Senior Attorney, LRC, distributed a few pages from the US Department of Health and Human Services 2012 report on Child Maltreatment (**Document #4**). The full report can be found online at: <http://www.acf.hhs.gov/sites/default/files/cb/cm2012.pdf>. One page of the report shows the number of reports of maltreatment in each state, broken out by screened-in reports and screened-out reports.

Ms. Virgena Wieseler, Department of Social Services, Pierre, said that the way each state makes these reports to the US Department of Health is different. For example, North Dakota considers every reported case as screened in, while South Dakota only reports the cases that are referred on to family management as screened in. Ms. Reiss pointed out that the definition of child abuse also differs from state to state.

From this information, Senator Sohlt concluded that there is no standardized way of reporting this data and so making state by state comparisons is nearly impossible. The task force will need to give the sources of the information used and then make assumptions when developing strategies.

Ms. Wieseler explained that there is a gap in South Dakota data because DSS has agreements with four tribes for which the state does not provide protective services. Those four tribes are Flandreau Santee Sioux Tribe, Sisseton-Wahpeton Oyate, Standing Rock Sioux Tribe, and Oglala Sioux Tribe.

Ms. TateWin Means, Oglala Sioux Tribe Attorney General, said that those four tribes report directly to the Federal Government, not to the state.

Ms. Strand said that any child referred to an advocacy center is reported to NCA, whether a Tribal or non-Tribal case.

According to Ms. Wieseler, one additional online report that may be helpful when studying child abuse can be found at <http://cwoutcomes.acf.hhs.gov/data/overview>.

UJS Data

Mr. Greg Sattizahn, State Court Administrator, Unified Judicial System, Pierre, distributed a document listing the different types of sexual offenses and the number of those charged with the crime and the number of those convicted of the crime from 1998 through now (**Document #5**). This data is based solely on state court data. The Department of Justice Crime Statistics Bureau does have some data available for cases heard in the federal courts. Mr. Sattizahn commented on the difficulty in getting the full picture of these crimes in South Dakota because of the different types of reporting.

Mr. Sattizahn also presented and discussed the US Supreme Court Case, Crawford v. Washington, 541 U.S. 36(2004), which says that the accused must have the opportunity to question the accuser during trial.

Legislation across the Nation

Ms. Reiss distributed a document prepared by NCSL regarding Erin's Law and action taken regarding that law in several states (**Document #6**). According to the document, *"Erin's Law is named for Erin Merryn, who was sexually abused by both a neighbor and cousin when she was a child. After going public about her abuse, Merryn made it her mission to advocate in favor of ensuring that children have the age-appropriate education to recognize and talk about sexual abuse. Her efforts have led to passage of a version of Erin's Law in several states, including her home state of Illinois."* Thirteen states and Guam have enacted some form of Erin's Law.

The document also includes information on mandatory reporting of child abuse and neglect laws in states throughout the country, as well as specific revised school codes in Michigan, Texas, and Indiana.

Ms. Reiss said that many states, including South Dakota, limit reports to Child Protective Services to cases where a parent or guardian is involved in the alleged abuse. Some states allow cases where any family member is abusing the child to go to Child Protective Services, and some states say that any case involving a "person with a significant relationship" abusing the child should go to Child Protective Services.

Each state requires some mandatory reporting of child abuse with most states, including South Dakota, requiring professionals and child-care workers to report a reasonable belief of child abuse. A few states, including Montana and Wyoming, require any person with reasonable belief of abuse to report it. States differ on when and to whom reports must be made, with many states requiring the report be made to a supervisor and some states requiring it be reported directly to law enforcement so that the supervisor does not have to make a judgment call on whether to report it on to law enforcement. Twenty states require a written report be made to follow up the oral report. South Dakota does not require the written report.

Ms. Strand added that paramedics are required to report elder abuse but not child abuse. She suggested that the Task Force consider looking into correcting that by requiring they also report child abuse.

Summary of Youth Risk Behavior Survey

Ms. Colleen Winter, Department of Health, Pierre, distributed an informational handout regarding the Youth Risk Behavior Survey (YRBS) (**Document #7**). Through the YRBS program, South Dakota is one of the few states that are able to collect weighted data regarding health risk behaviors in high school students. The survey is conducted in 20-25 South Dakota schools every year and is "created to monitor six priority health risk behaviors that result in the greatest amount of morbidity, mortality and social problems among youth." Those six risk behaviors are injuries and violence, tobacco use, alcohol and drug use, sexual behaviors, dietary behaviors, and physical activity.

The survey is sent to 1500 students from public, private, and BIA schools and a 60% response rate is needed to obtain acceptable data.

The responses in past surveys show that students who have been forced to have sex are far more likely to seriously consider suicide and far more likely to actually attempt suicide. The full report can be found at <http://doh.sd.gov/statistics/YRBS.aspx>.

Child Advocacy Centers of South Dakota

Ms. Casey Murschel, CACSD Chapters Coordinator, Sioux Falls, said that CACSD (Child Advocacy Centers of South Dakota) was established in 2004 for the five advocacy centers located throughout South Dakota and distributed a brochure regarding CACSD (**Document #8**).

The five advocacy centers in South Dakota are located in Sioux Falls, Rapid City, Fort Thompson, Pierre, and Pine Ridge. "*Child Advocacy Centers are child-focused centers that coordinate the investigation, prosecution, and treatment of child abuse while helping abused children heal.*"

Ms. Murschel also distributed a pamphlet published by the National Children's Alliance which is the accrediting body for advocacy centers throughout the United States (**Document #9**).

Ms. Murschel explained the model for Children's Advocacy Centers and that the key component is the multi-disciplinary team that works together (**Document #10**). Originally, the Centers were used just for reporting sexual abuse of children but now they are used for reporting most any type of child abuse.

Ms. Murschel shared some important statistics with the task force. According to the US Center for Disease Control in 2006, one in four girls and one in six boys will be sexually abused before the age of 18. According to the NCA TRAK, there were 1,082 incidents of child sexual abuse reported in South Dakota in 2013. Native American children are two and a half times more likely to be sexually abused.

Personal costs are high for victims of sexual abuse, but there are financial costs to us all. The financial cost for all types of child maltreatment for one year is \$124 billion in the nation. Sexually violent acts against children aged 12 and under costs us \$71 billion per year, and the financial cost for sexually violent acts against children aged 13-24 is \$45 billion per year. In South Dakota, there are rural areas that are unable to access CAC support.

Ms. Murschel concluded her presentation by pointing out that we have significantly underestimated the effects of abuse on our children and their quality of life.

Ms. Angela Lisburg, Avera St. Mary's Child Advocacy Center, Pierre, is a family nurse practitioner and coordinator for the Central South Dakota Advocacy Center. Ms. Lisburg said that she evaluates children who suffer any type of abuse and sometimes several types of abuse. She distributed a document – "Child Advocacy Centers: An introduction to Services and Standards" (**Document #11**).

The document lists the 10 standards all Child Advocacy Centers must meet to have national accreditation. Those 10 standards are: Multidisciplinary team; cultural competency and diversity; forensic interviews; victim support and advocacy; medical evaluations; mental health; case review; case tracking; organizational capacity; and child focused setting.

Ms. Lisburg said that by following those standards, advocacy centers make sure that a child seen at an advocacy center in Fort Thompson receives the same treatment as a child seen in New York or Boston. She added that although each CAC must meet those 10 standards, they are each designed to meet the needs of the community in which they are located.

Ms. Lisburg said that the CACs always place the child first. When asked how they become connected with the child, she explained that the child may display emotional or physical signs of abuse and they then may be referred by law enforcement, child protection services, or any medical arena.

Medical evaluations hold an important place in any investigation because children learn early that doctors and nurses are good and can be trusted, and they are more likely to confide in them. 95% of abused children will present with normal physical exams. Also, several children in South Dakota have limited access to health care. Many 2-3 year olds have not had any healthcare since their post-natal examinations.

The CAC worker talks to the child about his or her body and what to do if someone touches them in a bad way. The CAC connects the victim to the necessary medical and professional care and follow-up. Photo documentation is the standard of care and CAC professionals are trained in how to properly photograph for evidence.

The CACs provide a child focused setting which is designed to provide a safe, welcoming space to help the child and family feel safe and comfortable.

Ms. Tanya Fritz, Director of the Child Advocacy Center of the Black Hills, Rapid City, explained that although law enforcement wants what is best, they are not always able to spend time with the family while it is in crisis. The Child Advocacy Centers do that.

The relationship between the child and the CAC begins with some type of disclosure, either purposeful or accidental. The victim often wants the behavior to stop but they don't want to get the perpetrator in trouble. No offenders are allowed on the premises. The child is brought to the center by the non-offending caregiver. The forensic interviewer talks to law enforcement and medical people about what needs to be considered before conducting the interview. The formal role of the CAC advocate is to know what is happening today and what is needed tomorrow.

The best case scenario would be that after a disclosure is made the child is immediately connected with a CAC and the advocate then makes sure the child gets the care and treatment needed. Victims connected with a CAC are four times more likely to get the medical and emotional care they need.

The CAC supports the victim and his or her family. Regardless of the result of the case, the CAC makes sure the family knows they have someone to walk beside them every step of the way.

Senator Soholt opened the meeting to questions for the representatives of the Child Advocacy Centers.

In response to a question about funding, Ms. Murschel explained that the CACSD (Child Advocacy Centers of South Dakota) is funded by a grant from the National Children's Alliance through the Department of Justice, individual donations, and membership dues from the five Child Advocacy Centers. As for the Centers, each one is different. Some centers are connected to hospitals. The CAC in Pine Ridge is under a CASA program. All centers are non-profit and do their own fundraising by applying for grants and finding private donors.

In some states there is a partnership with government, such as local governmental entities, Department of Social Services, or Attorney General Offices. CACs throughout the country may look different because of their governance or funding, but they all have to fulfill the same standards.

In response to another question, Ms. Murschel explained that a referral to a CAC must come through law enforcement or child protective services. If a family member calls, the CAC directs them to the proper agency for them to contact to get the assistance they need. Ms. TateWin Means added that tribal law enforcement is included in the agencies that can refer children to the CACs.

Child Sex Abuse Investigations

Mr. Cam Corey, Division of Criminal Investigations, Watertown, specializes in sexual assault crimes and presented information from the viewpoint of law enforcement. Mr. Corey pointed out that it is vital that communities understand what is happening. The Youth Risk Behavior Survey that is conducted is a perfect example. When 1500 students are surveyed and 120 of those students say they have been forced to have sex, the proof of how widespread this silent epidemic is can easily be seen.

People entering the law enforcement field are required to have 13 weeks of mandatory training at the academy in Pierre. During that training, four hours is spent on child abuse, both physical and sexual abuse. And then they must have 40 hours of law enforcement training every two years to keep their status. Mr. Corey said that he teaches the class on responding to sexual assault and that is only a half-hour out of a 4 hour class. He added that there are only one or two investigators in an agency who are comfortable in investigating these types of cases, and they do not work 24 hours a day.

The SD Network against Family Violence offers free training on responding to sexual assault. Mr. Corey said that he is the instructor for that training and seldom is anyone interested in taking the class.

According to Mr. Corey, law enforcement needs more training. If law enforcement officers have a problem with addressing this issue, how do we expect children to be able to talk about it?

Mr. Corey reported that he and the Beadle County States Attorney, working with others, have obtained a grant to encourage more Sexual Assault Response Teams (SART) and to help keep the seven existing SARTs up and running.

The Division of Criminal Investigation (DCI) oversees the South Dakota forensics laboratory. DNA has become a huge topic of interest. When a child sexual assault case is reported immediately after the crime has occurred, law enforcement does obtain DNA for testing. It can take several months to get the results, but they are working at improving that time frame to get the results back in 30-40 days.

In the past, DCI had received a grant to work on tribal lands investigating child sexual assaults and the program was quite successful. There is cooperation between federal, state and tribal governments when it comes to this issue. That funding is no longer available, so the program has ended.

South Dakota has a child abduction response team and those members receive additional training. This group can be anywhere in South Dakota within a few hours and is a collaborative effort between local and state law enforcement officers and the DCI.

In child sexual abuse cases, there are three basic ways law enforcement receives a case, victim reporting, medical reporting, or child protection services filing a report. The best option is to have the victim go to a CAC but that is not always possible. A protocol for interviewing child victims is being finalized and will be available to law enforcement very soon.

Some prosecutors won't take a case if the victim has not gone through a CAC. And there are many areas in South Dakota where it is a long distance to travel to get to a CAC and that may not be possible for some families.

In regard to the subject interview, much of the burden is placed on law enforcement to obtain confessions and admissions, as it is difficult to obtain an indictment without. The ability to effectively interview pedophiles requires specialized training.

Some obstacles faced by law enforcement when working child sexual abuse cases are lack of training; silent epidemic – it is difficult getting into the school to talk to teachers and coaches; and lack of child advocacy centers. There is no oversight to make sure a report gets investigated. There are not enough play therapists to work with the number of victims.

Mr. Corey concluded by saying that although there are many difficulties for law enforcement in regard to child sexual abuse cases, they are still able to do a lot of good.

A Child's Perspective of Sexual Abuse

Ms. Hollie Strand, Education and Public Awareness Specialist, Children's Home Society and CAC of the Black Hills, Rapid City, talked about the victims of child sexual abuse.

Statistics show that one out of every four girls and one out of every 6 boys are sexually assaulted by the age of 18. Some experts believe that only 1 out of 10 victims ever come forward to tell.

Victims of sexual abuse react in so many different ways. They may describe sex acts or talk more about sex than they should. Some children suffer with the perfect child syndrome in that they do everything right so no one realizes there is anything wrong. Some act out by abusing drugs or alcohol; some resort to cutting or eating disorders. The child's performance in school may change drastically.

There are no witnesses in these cases, so it is the child's word against the word of the perpetrator. Families will ask that the crime not be reported because it will bring shame to the family. Every person the child talks to asks different questions so the answers may seem inconsistent, thus creating a disbelief in what the child is saying. They may give piecemeal disclosures based on who they are talking to. This doesn't mean they are lying but that they are merely telling what is comfortable for them to say at that moment.

If it does go to trial, the amount of time it takes to get into the courts is too long. A child's perspective of an event can change in a year and a half. Then they face untrained judges, uneducated prosecutors, and uneducated juries.

A victim of child sexual abuse is almost always violated by someone they know. Ms. Strand said that in the thousands of cases in which she has conducted interviews, only six victims had been touched by strangers.

The perpetrators usually groom their victims, picking the child least likely to tell or least likely to be believed. They may show the child pornography so that the child thinks these acts are normal. The offender may threaten the child into keeping it a secret. The child often doesn't want the offender to get in trouble; they just want them to stop. Oftentimes, once the child tells, there is such disruption that he or she will say it was a lie just to fix everything.

The forensic interviewer is so important and must be well trained. There can be no leading or suggestive questions; they must avoid the use of the word "any"; they must remember that a child's concept of time is far different from the world's view of time; children often use pronouns but don't know what they mean. Child Advocacy Centers are well trained and have the staff qualified to conduct these interviews.

Ms. Strand added that the child sexual abuse cases they see in the advocacy centers are just a fraction of the abuse that actually occurs.

Addressing the Mental Health Needs of Child Abuse Victims

Ms. Christine Bisek, Capital Area Counseling Services, Pierre, distributed a document, *"Addressing Mental Health Needs" (Document #12)*. There are eleven community mental health centers throughout the state. In addition to those, there are private and independent practitioners and residential services.

Abuse changes a child's worldview and the child will try to search for reasons. Trauma symptoms sometimes are confused with other diagnoses such as ADD/ADHD and other learning disabilities. Through therapy, the counselor tries to find new pathways to promote healing.

Trauma Focused Cognitive Behavioral Therapy (TF-CBT) is designed for children, adolescents, and non-offending caregivers. The eight components of TF-CBT are:

1. Psycho-education and parenting skills
2. Relaxation
3. Affective modulation
4. Cognitive coping and processing
5. Trauma narrative
6. In vivo mastery of trauma reminders (overcome fears or triggers)
7. Conjoint child-parent sessions (non-offending caregivers)
8. Enhancing future safety and development.

Very rarely do the counseling centers encounter a child who was abused by a stranger; almost all children are abused by someone they know.

There are great benefits to the victim when the Child Advocacy Centers work in conjunction with the mental healthcare providers.

Ms. Bisek was asked if this therapy will work if the child suffers a chemical dependency. Ms. Bisek explained that more than one issue can be addressed at a time, they do not have to wait for one treatment to be completed before starting another.

Ms. Bisek was asked what happens if the parent is unwilling to participate in the therapy. She replied that they will try to find another supportive adult in the child's life. That person may not be able to go through the entire treatment, but will be supportive of the child as he or she goes through the treatment.

Ms. Bisek said that about 50% of the children who go to a CAC are also seen by a mental healthcare provider. The mental healthcare providers do work with families who have not been to a CAC.

Ms. Strand pointed out that the lapse of time between going to the CAC and seeing a mental healthcare provider can be critical. If this connection is not made right away, the motivation decreases with time.

Possible Funding Sources

Mr. Jason Simmons, Senior Fiscal Analyst, explained that the Children's Trust Fund was created in 1984 and is a dedicated funding source for child abuse education and awareness. It is funded through a \$2 fee on birth certificates and is allocated to specific areas with no funding left available. The \$2 fee has not been adjusted in 30 years. Senator Soholt said that shifting any of those dollars would affect several agencies and organizations currently using the funding, so that may not be a viable option.

Senator Soholt asked Mr. Simmons to take a more thorough look at possible federal grants and funding that may be available. Each of the task force members representing state agencies talked about where their federal funding is used. Each of those members said they would go back and look further at the agency budgets to see if there are any dollars available to redirect toward this effort.

Future Meetings

The next three meetings of the Jolene's Law Task Force will be Tuesday, October 14, Monday, November 17, and Monday, December 1, all in the State Capitol in Pierre.

Adjourn

REPRESENTATIVE GIBSON MOVED, SECONDED BY REPRESENTATIVE JENNA HAGGAR, THAT THE JOLENE'S LAW TASK FORCE BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The Committee adjourned at 4:30 p.m.