

**MINNESOTA GOVERNOR'S COUNCIL
ON DEVELOPMENTAL DISABILITIES**

Wednesday, October 2, 2013
12:15 p.m. – 2:20 p.m.
Continuing Education and Conference Center
University of Minnesota St. Paul Campus
1890 Buford Avenue, St. Paul, Minnesota 55108

MINUTES

MEMBERS PRESENT

Dan Reed, Chair
Peg Booth
Dawn Bly
Jennifer Giesen
Loraine Jensen
Steve Kuntz
Louis Lenzmeier
Lynne Megan
Stevie K. Nelson
Carolyn Perron
David Quilleash
Mary Raasch
Robbie Reedy
Bryan Schmidt
Bonnie Jean Smith
Mike Stern
Joe Timmons
Wendy Velzke
Katheryn Ware

STAFF PRESENT

Colleen Wieck
Mary Jo Nichols

MEMBERS EXCUSED

Mary Hauff
Tom Holtgrewe
Matt Kramer
Barb Lundeen for Shawn Holmes
Scott Price
Melissa Winger

GUESTS

Jim Backstrom, Dakota County Attorney's
Office
Robin Bly, family member
Robert Gibbons, Metropolitan State University
Monica Jensen, Dakota County Attorney's
Office
Jim Lovold
Nancy Miller, Metropolitan State University
Mary Ann Reich, Arc Greater Twin Cities
Trinh Tran
Jerrod Vincent, staff support for Robbie Reedy

I. CALL TO ORDER

Dan Reed, Council Chair, called the meeting to order at 12:15 p.m.

II. INTRODUCTIONS

Everyone present introduced him/herself.

COUNCIL PROGRAM

Colleen Wieck introduced Jim Backstrom, Dakota County Attorney's Office. Backstrom graduated from William Mitchell College of Law in 1978. He has worked at Dakota County for over 35 years. Wieck said that she looked at all of the cases that Backstrom has prosecuted over the years. Some recent cases are examples of his commitment to justice when individuals with developmental disabilities have been victimized, including actions taken against the parents of several children who were severely malnourished and a young man with autism who was beaten up.

Jim Backstrom said he is privileged to be serving as Dakota County Attorney for 36 years. He began his career there as a law clerk and has a passion to help crime victims especially vulnerable adults and children. He noted that a lot of emphasis is placed on crime prevention in his office.

He has worked with Disability Justice, helping attorneys to develop an understanding of people with disabilities and address them with sensitivity. He has discussed these important issues and the travesties endured by people with disabilities through Continuing Legal Education sessions. He said it is shocking to know how people with disabilities have been treated.

Backstrom provided some background on Dakota County in relation to his office. Dakota County is the third largest county in the state. When the County Attorney's Office first started, there were six or seven attorneys on staff; now there are 39 attorneys.

County attorneys prosecute crimes and represent the counties in Minnesota. By and large, they need a level of autonomy and independence. It's important that prosecutors are elected; they can't have other people pressuring them to make tough decisions.

County attorneys could also be intervening in civil court matters that are seeking to protect children and vulnerable adults at the same time they are prosecuting the person who may be harming them.

Crime victims with disabilities pose both challenges and opportunities for those working in the criminal justice system. There can be difficulties in communicating and understanding so, even with some evidence and knowing that someone has been harmed, charges can't always be filed. There has to be a level of certainty, sufficient evidence to go forward, and a reasonable belief that the elements of a crime can be proved beyond a reasonable doubt before charging out. This is no reflection on the individual or their honesty. Between 20 percent and 30 percent of cases are never charged simply because there is not enough evidence to go forward.

Professionals in the criminal justice system are trained to bring a measure of justice to very different situations. There is nothing we can do to undo a crime but we can work hard to hold those responsible accountable. We can take the time to gather evidence and work through the process. Law enforcement is responsible for investigating. The county attorney is responsible and must make decisions about charging or not charging, and at what level if charges are filed.

Between 50 percent and 60 percent of crimes involving young children are never reported. Victims are frightened, scared, and they feel responsible. We have to work to empower victims of crime to come forward.

Backstrom then reviewed Minnesota statutes that address specific crimes that focus on persons with disabilities (Minn. Stat. §363A.03, subd 12) and crimes motivated by bias (Minn. Stat §609.2231, subd 4). Often there are no witnesses, particularly when crimes are committed in the person's home, the physical evidence needed is not there (bruises can disappear quickly), and charges can't be filed.

At the same time, between 94 percent and 96 percent of those cases charged out do get convictions in Dakota County. We also try not to hurt or harm crime victims more than what they have already endured when going through the court process.

Minn. Stat. §609.23 addresses the mistreatment of individuals in institutions and Minn. Stat. §609.232 covers crimes against vulnerable adults.

Minn. Stat. §609.233 addresses the criminal neglect of vulnerable adults. This statute was amended in 2012 and a provision added raising the intentional deprivation of

necessary food, clothing, health care, or supervision of a vulnerable adult by caregiver/operator neglect to a felony level crime.

Minn. Stat. §609.2325 addresses criminal abuse and includes physical or mental pain or injury to a vulnerable adult, aversive or deprivation procedures, unreasonable confinement, or involuntary seclusion.

Minn. Stat. §609.2335 addresses the financial exploitation of vulnerable adults. Backstrom mentioned the Minnesota S.A.F.E. Elders Initiative Project, an effort to raise public awareness about elder abuse and the warning signs.

Minn. Stat. §609.342 begins a series of statutory provisions regarding criminal sexual conduct ranging from fifth to first degree. Backstrom said that sex crimes against the defenseless are the worst and offenders need to be sentenced for the longest time possible. Sentencing enhancements are available in those instances where someone is providing special transportation for persons who are vulnerable adults; consent is no defense.

The sentencing guidelines discuss both mitigating and aggravating factors that prosecutors can use to argue for deviations.

Backstrom talked specifically about the Justin Hamilton case in 2008. Justin was a 24 year old vulnerable adult who was taken to the woods in rural Northfield and beaten repeatedly by a group of five people over two consecutive nights. Two of the defendants were members of the Minnesota National Guard. Charges were filed against each defendant and each was separately sentenced.

One of the defendants was a 16 year old woman who was prosecuted in juvenile court. She was first sentenced to 60 to 90 days in a juvenile detention center, where she didn't do well, and subsequently given a 96 month prison sentence.

Backstrom then talked about witness preparation for individuals with disabilities. Extra support and sensitivity are needed during investigations. Child or adult protection teams can help to reduce stress and anxiety, and build rapport. Charges need to be carefully explained. Pre-trial meetings can be held in the person's home.

At trial, a modified oath is used. Pre-trial rulings include accommodations that might be needed; concerns about reactions and responses to seeing a defendant need to be anticipated. If appropriate, restorative justice options are available.

Backstrom then showed a short video, *Courthouse Dogs*. These dogs are trained by an accredited service dog organization. They can assist crime victims, witnesses, and others during the investigation and prosecution of crimes and during court proceedings. There is interest in bringing a program to Minnesota.

Reed thanked Jim Backstrom for his presentation, and his leadership and commitment to justice for individuals with developmental disabilities who are crime victims.

III. APPROVAL OF AGENDA

Reed asked for approval of the Agenda.

MOTION: Nelson moved, seconded by Reedy to approve the Agenda. Motion carried; there were no dissenting votes.

IV. APPROVAL OF MINUTES FOR AUGUST 7, 2013

Reed asked for approval of the Minutes as written for August 7, 2013.

Timmons noted that he was present for the August 7, 2013 Council meeting. Council minutes will be corrected to note his presence.

MOTION: Smith moved, seconded by Timmons to approve the Minutes as written for August 7, 2013 with the above correction. Motion carried; there were no dissenting votes.

Committee reports were moved up on the Agenda and followed by the Chair's Report.

V. GRANT REVIEW COMMITTEE

Stern reported that a supplier performance review was completed with Merrick, Inc. He said this was a wonderful presentation by self advocates who are providing education and training sessions for students at three elementary schools on how to prevent bullying. Stories were shared about personal experiences with bullying. The comments that teachers and students made about the training sessions were so valuable and most impressive.

Merrick also talked about the partnership they have with Peacemaker Minnesota, and the curriculum they are using and modifying for students with disabilities.

The Committee reviewed the proposed FFY 2014 Administrative Spending Plan and is recommending approval.

MOTION: Reed moved, seconded by Smith to approve the FFY 2014 Administrative Spending Plan. Motion carried; there were no dissenting votes.

Stern added that one cost effective measure that was suggested was to email Council packets to members rather than send in the regular mail.

VI. PUBLIC POLICY COMMITTEE

Reed reported that the Department of Health presented information about their newborn screening program. Committee members provided input on the Department's proposed storage and use plan for blood samples. Comments and feedback addressed ways to improve the system, including preparing packets of information that explain the testing program and how blood samples are used in easy to understand language, and making sure that families are aware of and can choose to opt out of having blood samples stored.

Reedy said that the Merrick anti-bullying sessions presentation was one of the best presentations he has heard and there was a lot of energy about this topic.

VII. CHAIR'S REPORT

Reed talked about ReelAbilities, the international film festival that will be held November 1-5, 2013 at the St. Anthony Main Theatre in Minneapolis. ReelAbilities spotlights award winning films by and about people with disabilities; trailers can be viewed at the website.

Reed extended appreciation to Jennifer Reiter, a Class 30 Partners in Policymaking graduate, whom he met at the Partners graduation in May. Reiter was formerly the marketing director for the Guthrie and offered her expertise to help promote this event. The Guthrie agreed to sponsor open acting classes, with 10 spaces available for people with disabilities. These classes will be led by Danny Woodbine who had a role on the Seinfeld series

VIII. EXECUTIVE DIRECTOR'S REPORT

Wieck provided the following updates and highlights from monthly reports:

1. The President's budget restores funding for FFY 2014 although we've been advised that cuts may stay in place. We have carryover funds during the government shutdown.
2. An 18 month time line has been prepared and the clock has begun on rule writing for replacement of Rule 40. The Court Monitor has requested a list of concerns regarding gaps between the Rule 40 Advisory Committee's recommendations and 245 D.
3. Regarding the Olmstead Committee:
 - a. The Subcabinet meets on October 8, 2013;
 - b. All input from the Council has been submitted;
 - c. All public input that was submitted online has been received and categorized;
 - d. Quotes have been identified from the transcripts of the listening sessions;
 - e. Several national subject matter experts provided feedback on version 2
 - f. Version 3 was submitted to the Subcabinet on October 8, 2013;
 - g. The final plan is due to the Court on November 1, 2013;
4. Regarding employment issues:
 - a. The Governor's Office may issue an Executive Order to coincide with the release of the final Olmstead Plan;
 - b. State employees have been asked to go into their records and indicate if they have a disability; this is voluntary;

5. The 9th "Moment in Disability History" was posted for September and features Willowbrook; the video clip following New York Senator Robert Kennedy's tour of Willowbrook and Geraldo Rivera's exposé are included.
6. The 10th "Moment in Disability History" was just posted for October and features the P&A system; highlights of testimony presented at a hearing conducted by Senator Jacob Javits regarding an extension of the DD Act to permit the establishment of a P&A system includes testimony by Cliff Poetz.
7. Proposals received in response to a Request for Proposal for scanning and document imaging are being reviewed and evaluated.
8. A total of 137 stakeholder surveys were sent out and 105 responses received.
9. Mary Hauff is working on a Proclamation for Inclusive Schools week in December.

Wieck added that for the December Council meeting, we will be working in small groups with Tom and Derek Pearson, MarketResponse International, on a strategy building exercise in followup to the K-12 education study done this past year. Next year's research study will be a quantitative study.

IX. NEW BUSINESS

- A. Presentation and approval of the FFY 2014 Work Plan

Wieck presented the FFY 2014 Work Plan, based on the Baldrige Criteria, and summarized each of the sections.

MOTION: Quilleash moved, seconded by Nelson, to approve the FFY 2014 Work Plan. Motion carried; there were no dissenting votes.

X. OTHER BUSINESS

- A. Timmons made two announcements. The Research and Training Center on Community Living at the University of Minnesota received five year continuation funding.

Funding was also received from the Food and Drug Administration Office of Women's Health to conduct a study about prescription and over-the-counter drug usage. Two focus groups will be arranged as part of this study; one focus group will include women with developmental disabilities, the other focus group will include women who are deaf or hard of hearing.

- B. Megan noted that October is National Disability Employment Awareness Month. She emphasized that we should all be helping people with disabilities to get jobs.
- C. Kuntz made an announcement about *The Real Story*, a documentary about media coverage of disability issues in Minnesota and how the media reports on stories that are important to people with disabilities. The film will premiere on October 28, 2013 at the University of Minnesota's McNamara Alumni Center.
- D. Quilleash noted that, regarding the employment of people with developmental disabilities, supports are needed to not only help people get jobs but also keep their jobs.
- E. Reedy said that the Northwest SAM Region is holding elections for representatives and he is on the ballot.

IX. **ADJOURNMENT**

Reed asked that the meeting be adjourned.

MOTION: Velzke moved, seconded by Schmidt to adjourn the meeting.

The meeting was adjourned at 2:20 p.m.

Respectfully submitted,

Colleen Wieck
Executive Director