



FOURTH JUDICIAL DISTRICT

Family Violence Coordinating Council

September 13, 2018

Minutes

**Fourth Judicial District
Family Violence Coordinating Council
Serving Hennepin County**

Present: Boswell, Vernona; Brey, Catherine; Bute, Shiloh; Eckberg, Deborah; Folkens, Bruce; Hogan, Elizabeth; Manning, Bruce; Milgrom, Aaron; Miller, Adam; Nelson, Melynda; Osborne, Erin; Ratner, Rachel; Saunders, Jennifer; Schwartz, Lori; Taylor, Jennifer; Twogood, Ben; Weinstein, Michael; Wick, Kathy; Wilson, Kate; Crockford, Carrie; Freeman Juanita; Asell, Beth; Braun-Lewis, Jackie; Dvorak, Liz.

New member orientation (11:55-12:15)

Katie Brey welcomed the new members and gave them a membership packet and answered questions.

Regular meeting (12:15-1:30)

1. **Welcome:** Katie Brey welcomed members and guests, who then introduced themselves.
2. **Approve July 12, 2018 Minutes:** Minutes approved as submitted.
3. **Overview of Child Protection Investigations into sexual abuse maltreatment**
Lori Schwartz, Assistant HC Attorney, presented the process of investigating reports of sexual abuse maltreatment by Child Protection. This is Ms. Schwartz last meeting as an FVCC member and as co-chair of the FVCC Juvenile Committee. Katie Brey thanked Ms. Schwartz for her service to the committee.
4. **Committee reports:**
 - a. **Civil:** Adam Miller reported that trainings are being held on October 5, 2018 (Child Testimony in DV cases) and Nov 9, 2018 (Emergency filings vs OFPs). The committee also discussed service by alternate means in Family Court.
 - b. **Criminal:** Jennifer Saunders reported that during the August meeting they discussed the Resource Fair and confirmed CLE speaker, Rachel Kohler, from Standpoint. A CLE was held on August 29, 2018; Patina Park presented on domestic violence and trafficking in the Native community. There will be a December CLE on firearms statues relating to DV. Committee members continued their discussion regarding the feasibility

of a treatment court for Domestic Violence.

- c. **Juvenile:** Lori Schwartz reported the last meeting was taken up with discussion about the October 3 Resource Fair. Anne Taylor is retiring and this will be her last fair. Because both Anne and Lori are leaving the FVCC, a new chair will be selected by the Juvenile Committee.
- d. **Advocate:** Rachel Ratner replaced Stephanie Avalon as the new chair of the committee. At the Oct 25 2018 meeting, the committee will tour the jail and observe the booking process.

5. Announcements /Open Forum: All

A reminder that upcoming events are listed at the end of each Agenda and the minutes. Both include links to FVCC Google calendar on the FVCC web page.

Meeting adjourned at 1:03

Future Agendas

October 11, 2018 – MSBW Legislative Update

Upcoming events

October 3, 2018 – FVCC Resource Fair; Free CLE – Domestic Violence and Immigration (HCGC – PSL)

October 5, 2018 – Free CLE - Child Testimony (Central Library)

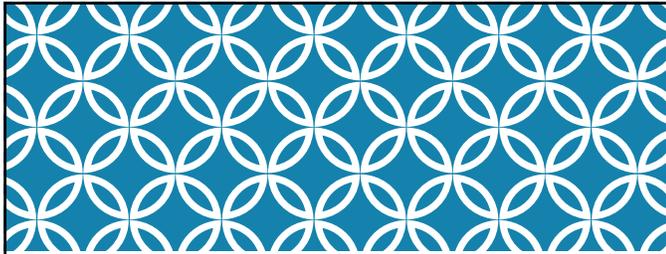
November 9, 2018 – Free CLE - Emergency filings vs Orders for Protection (Family Justice Center)

Use this link to find us on the web.

[http://www.mncourts.gov/Find-Courts/Hennepin/Family-Violence-Coordinating-Council-\(FVCC\).aspx](http://www.mncourts.gov/Find-Courts/Hennepin/Family-Violence-Coordinating-Council-(FVCC).aspx)

Use this link to access our Google Calendar of events.

<https://www.google.com/calendar/embed?src=fvcccalendar%40gmail.com&ctz=America/Chicago>



OVERVIEW OF CHILD PROTECTION INVESTIGATIONS INTO SEXUAL ABUSE MALTREATMENT

A FIVE YEAR PERSPECTIVE FROM THE TRENCHES...

SO JUST HOW DOES THE AGENCY APPROACH THESE CASES?



THE PROCESS—NOT A DAY AT THE BEACH

- 1. Screener takes report
- 2. CP Investigator is assigned
- 3. 24 hour response case
- 4. Police- may conduct investigation jointly with CPI
- 5. Possible CH involvement



APPEAL PROCESS

1. A NOD (NOTICE OF DETERMINATION) letter is sent out to the alleged offender, indicating what the allegation was and whether or not maltreatment was determined.
2. Appellants can request reconsideration of their determination from the County.
3. If the County doesn't reconsider, the Appellant can request an Appeal of a determination against them to MN DHS
4. The CPI testifies at Appeal hearings.
5. MN DHS decisions can be appealed by either the Agency or Appellant to the Commr. for the Department of Human Services and/or to District Court.

THE FLIGHTPLAN:



- The CPI interviews the reporter (ie: school, therapist)
- The CPI or police interview the child victim but not much, if they are going to use CH
- The CPI interviews siblings, non-offender parents
- The CPI or police interview the alleged perpetrator
- The CPI may interview witnesses
- Contacts and what they say are summarized in case chronos
- The maltreatment decision is made in consultation with the CPI's Supervisor

WHAT MUST THE CPI DECIDE? YOU'D HAVE TO BE A LAWYER . . .



"Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who had a significant relationship to the child, as defined in section 609.341, OR by a person in a position of authority, as defined in section 609.341, subd. 10, to any act which constitutes a violation of 609.341, subd. 10, to any act which constitutes a violation of 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree, or 609.3451 (criminal sexual conduct in the fifth degree.

Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who had committed a violation which requires registration as an offender . . .

M.S. 626.556 Subd. 2. Definitions.

THREATENED SEXUAL ABUSE

Means a **statement, overt act, condition, or status that represents a substantial risk of physical abuse, sexual abuse or mental injury.** Threatened injury includes, but is not limited to, exposing a child to a person responsible for a child's care, as defined in M.S. 626.556, subd. 2, €(1) who has:

Subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in M.S. 260C.007, subd. 14, or a similar law of another jurisdiction, been found to be palpably unfit, committed an act that resulted in an involuntary TPR, . . . [2012 Screening Guidelines](#)

[Since July, 2015 Screening Guidelines say:](#) Threatened sexual abuse includes but is not limited to "anything said or done that poses a significant danger that the offender will perpetrate, or attempt to perpetrate, sexual abuse with a child including soliciting sexual activity with another non household minor, . . . recognized precursors to child abuse, possession of child pornography, allowing a person who had sexually abused a child to reside in the home with a child, or have unsupervised contact with a child, showering or bathing with sexualized intent, prolonged lip kissing, and/or peeking at a child while they are undressing/dressing (and some status offenses (CSC1-5 with a minor, prior malt. determination for sex abuse by an agency or subject of predatory off. Registration)

THERE MUST BE A CAREGIVER RELATIONSHIP,
SIGNIFICANT RELATIONSHIP OR
THE ABUSER WAS IN A POSITION OF AUTHORITY . . .



HELP QUESTIONS ARE ASKED TO ESTABLISH
A CAREGIVER RELATIONSHIP





QUESTIONS

- Do you help the child get food?
- Do you help the child get dressed?
- Do you help the child go to the bathroom?
- Do you help the child in and out of the bathtub?
- Do you tell the child it's time to turn off the tv? pick up toys, brush teeth, go to bed? get up?
- Do you take the child to the park? watch for traffic and tell the child when to cross the street?

CRIMINAL SEXUAL CONDUCT VIOLATIONS

CSC First Degree:
Penetration with child under 13 when appellant is 36 months older; penetration with child 13-16 when appellant is 48 months older; there is basis for fear of imminent great bodily harm; there is use or threat of weapon; there is personal injury to child with either 1) force or coercion, 2) child having mental impairment or being helpless, or 3) appellant is aided by accomplices and there is force or coercion or weapon involved; appellant has a significant relationship to the child and child was under 16 . . .

CSC Second Degree:
Contact instead of penetration but otherwise as listed in CSC First Degree

CSC Third Degree:
 Penetration with child under 13 and appellant is no more than 36 months older; child is at least 13 but not more than 16 and appellant is over 24 months older (if appellant is no more than 10 years older, can present as defense mistake as to age); appellant uses force or coercion; appellant knows child is mentally impaired or physically helpless; child is at least 16, appellant is more than 48 months older and in a position of authority; appellant has significant relationship to child who was at least 16 and there was force or coercion, personal injury or multiple acts over extended period of time. . . .

A TAD SIMPLIFIED, WAS THERE PENETRATION? (CSC 1 OR 3) OR CONTACT (CSC 2, 4 OR 5) WITH INTIMATE PARTS?



Intimate parts include the primary genital area, groin, inner thigh, buttocks, or breast

*Touching or removing the clothing over the buttocks alone, is not enough. M.S. 609.34351, Subd.1(2)

SO DOES THIS DIAGRAM DEPICT AN INTIMATE PART?



AND THE ANSWER IS:



“SEXUAL ASSAULT CASES ARE SOME OF THE MOST DIFFICULT CASES

prosecutors, law enforcement, victim witness professionals, and members of the prosecution (or Child Protection) team will handle.”

National College of District Attorneys, 2107

THESE ARE "HARDER."



THE LAW SAYS A MALTREATMENT COURT MAY ADMIT ALL EVIDENCE WHICH POSSESSES PROBATIVE VALUE INCLUDING HEARSAY IF IT IS THE TYPE OF EVIDENCE ON WHICH REASONABLE, PRUDENT PEOPLE ARE ACCUSTOMED TO RELY IN THE CONDUCT OF THEIR SERIOUS AFFAIRS

THE LAW SAYS THE STANDARD OF PROOF IN A MALTREATMENT HEARING IS PREPONDERANCE- MORE PROBABLE THAT NOT, 51%

... so is the word of a child enough?



APPELLANTS OR THEIR ATTORNEYS FREQUENTLY ARGUE:

The child was **angry** and made it up.

The child was **coached** by the divorcing parent.

The child was **asked leading questions**.

The child was **not specific enough**.

The child was **inconsistent** (mentioned different things to different people).

The child **doesn't know what is real**.

The child **recanted**.

It's not the child's fault but **the child was mistaken** (accidental touch)



PROVING SEXUAL ABUSE IS A CREDIBILITY BATTLE



THE CARDS ARE NOT STACKED IN THE AGENCY'S FAVOR



THE BENCH HISTORICALLY STATEWIDE RULES AGAINST THE AGENCY 50% OF THE TIME



ESPECIALLY SO WHEN THE PERPETRATOR IS
<18

MN DHS SCREENING GUIDELINES DO OFFER GUIDANCE . . .

DD OR INCOMPETENT CHILD OFFENDERS



ELICITING PRIOR CONDUCT HELPS ESTABLISH INTENT:

IS THE WORD OF A CHILD ENOUGH WHEN THE PERPETRATOR DENIES THE OFFENSE?



MIXED RESULTS

- + lack of eyewitness corroboration
- + delayed reporting?
- + reporting to one party and not another
- + recantation

DON'T TELL BUT THE AGENCY HAS A SECRET WEAPON . . .



CH HAS FORENSIC INTERVIEWERS THAT CAN EXPLAIN

- Age and ability appropriateness in relaying information
- That the child showed **discernment** (answered some questions yes, some no, and corrected the interviewer)
- That the child appeared **spontaneous** and there was **not indicia of coaching**
- Why reporting might be **delayed**, why the child may disclose to one, but be reluctant to talk to another (**incremental disclosure**)
- That **not all leading questioning is not bad** (Directed questioning Protocol)
- **Reasons for recantation** and frequency
- Reluctance to disclose and **overpraising** the alleged perpetrator



2008 TO 2018

Things have changed in ten years . . .

from about a case a year to nearly a quarter of our appeals involving sexual abuse