

Make Sexual and Severe Physical Abuse Fully Extinct Task Force (Make S.A.F.E.)

Response Committee Meeting

Thursday, July 16, 2020 8:00 AM - 9:00 AM (CDT)

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Response Committee Members present:

- Kim Mangiaracino, *Children's Advocacy Centers*
- Tierney Stutz, *Department of Children and Family Service (left at 8:45)*
- Philip Wagenknecht, *Chicago Public Schools - Office of Inspector General (joined at 8:18)*
- Jamie Brunnworth, *Illinois State Police*
- Krish Mohip, *Illinois State Board of Education (left at 8:58)*

MAKE S.A.F.E Response Committee members absent:

- Dan Wright, *Sangamon County State's Attorney's Office*
- Janiece Jackson, *Superintendent, Lindop School District 92*
- John Curran, *State Senator, 41st District*

ISBE staff present:

- Krish Mohip, *Deputy Operational Education Officer*
- Athanasia Albans, *Assistant to Deputy Operational Education Officer*

Chair: Dan Wright

Vice Chair: Kim Mangiaracino

I. Welcome/Roll Call

Krish welcomed all attendees and thanked them for their time. He brought the meeting to order at 8:08 am. Roll Call was taken, and a quorum was not present.

II. Approval of Minutes 7/10/2020

The minutes were not approved due to not having a quorum.

III. Review of Recommendations

Krish Mohip read recommendation 1: Establish legislative action to implement requirements for any subsequent interview of a victim following the initial CAC forensic interview required by the new legislation.

Krish Mohip read the brief explanation of the recommendation: There is growing concern about re-traumatizing the victim by conducting subsequent interviews following the initial CAC interview. While we understand districts are obligated under federal law to investigate certain allegations pursuant to Title IX, steps need to be taken to minimize subsequent interviews of a victim. If an additional interview is needed, it must be conducted in compliance with specific parameters to ensure coordination with the CAC and law enforcement. This would help avoid potential interference with the criminal investigation and ensure that any subsequent interview is conducted in the most trauma-informed manner possible.

Kim Mangiaracino said that in SB456 it states that if there is going to be an interview with a child at a school, it requires a child advocate to be present during the interview. This is already in law. She expressed concern because it could be perceived as going backwards. She also stated that DCFS was not listed as a stakeholder group in the recommendation with the CAC and law enforcement.

Krish Mohip asked when this interview would occur. Would it be when the school was conducting a second interview?

Kim Mangiaracino stated that was her understanding. She further added that from earlier meeting conversations, law enforcement felt that a subsequent interview needs to take place as more information becomes available so that they can collect the information about possible school personnel that has been accused of something. She provided a scenario: a teenage girl accused a teacher of abuse, goes to the CAC, and states that nothing or very minimal happened. At that time, the investigation stops/closes or perhaps it does not. Once it closes, any new information would be a new report. Kim Mangiaracino stated that when it does not close, it means the school has not collected enough information for a criminal case. As the school collects more information they do an interview because they want to make sure they collect all the information about that relationship. Kim Mangiaracino stated it becomes a slippery slope because there is an allegation and it is investigated and closed. Any new information would become a new report. If additional information (e.g.: text) is discovered or a witness comes forward, that should be rereported. Kim Mangiaracino further stated that what the recommendation

could be explaining when an interview takes place and the child does not give enough information to determine it is criminal, but the school is interested in investigating because it does not rise to the level of a DCFS and/or law enforcement investigation. The school still wants to maintain the ability to investigate by questioning the child to determine whether under the school's policy discipline can be taken.

Jamie Brunnworth stated that there are circumstances where the school may have additional questions for a child that may not have been covered in the CAC interview. Law enforcement may be done with their portion of the investigation, but the school may need further information. Instead of conducting several subsequent interviews, this recommendation puts specific parameters in place to minimize retraumatization if a second interview is absolutely necessary.

Krish Mohip suggested that perhaps the recommendation should be more specific by stating, if an additional interview is needed by the school. As the recommendation reads now, it is unclear if the interview is conducted again by the police, the CAC, or others.

Tierney Stutz asked when thinking about retraumatization, is there anything in the recommendation related to the time frame from when the incident occurred? What does the scenario look like when this is happening? Tierney Stutz stated that she is uneasy when these things occur in general outside the scope of the investigation of child maltreatment by the government agencies assigned to do so.

Phil Wagenknecht stated that there is a memory of understanding with the CAC which currently allows for this. We highly coordinate with the CAC. When the CAC has a case, CPS goes into a holding pattern. If they (the CAC) conduct a forensic interview there is an agreement that CPS can obtain that and view it. Phil Wagenknecht stated that the goal is not to conduct a follow-up interview and explained how typically situations in CPS are conducted so as not to retraumatize a victim. He further explained that it has happened and could happen more in the future where a forensic interview is done, and the CAC finds that nothing happened, but the school district still has an obligation. The police and CAC suspend their case based on everything they have done, they cannot investigate anymore. The point of the Office of Inspector General is to pick up where they (CAC and police) left off and continue to try to get to the bottom of things. This is another line of defense to protect kids. In the course of a follow-up investigation, sometimes they uncover additional evidence and think they need to speak to the child victim again. Phil Wagenknecht stated that they would not do that without bringing the evidence back to the Children's Advocacy Center and sharing the additional evidence they have collected. He stated that it has happened and can happen where the CAC and police have closed their case and does not rise to the level of needing to move ahead. Phil Wagenknecht stated that they need the ability to follow up with an additional interview and when they have done that, it has been coordinated with the CAC. Phil Wagenknecht shared a situation where there was extensive criminal conduct which was discovered because they conducted a follow-up interview. Had they not done the follow-

up interview, that would have never been discovered or charged. It was cleared by the CAC for CPS to do the follow-up interview and after CPS did, they discovered evidence of high importance. CPS referred it back to the CAC and the police pick-up the case again. Phil Wagenknecht stated that was a success story for his office, but there needs to be procedure for something like that to happen with coordination with law enforcement and the CAC. The point of the recommendation is to avoid anything reckless and it is carefully done in coordination with law enforcement and the CAC.

Krish Mohip asked, in that example what if you went back to the CAC and they said no, they did not want you to do a follow up investigation.

Phil Wagenknecht stated that then there would be a legal tension because we are obligated under Title IX. The CAC cannot tell the school that they cannot investigate. The CAC can say that they advise against re-interviewing a child victim to avoid trauma.

Krish Mohip asked what would happen if they told you not to re-interview the victim.

Phil Wagenknecht responded that depending on the case, they may feel they need to do it. Based on the relationship with the CAC that serves CPS, they would not be in that situation because either they would agree to do the follow-up interview, or they would allow CPS to conduct it. He added that it is not something that they do very often. Typically, it is because there is compelling evidence that warrants it and if they did not re-interview this person they would be negligent in their duties and would not be complying with Title IX.

Krish Mohip asked Phil Wagenknecht to explain what is meant by "timely notice".

Phil Wagenknecht stated that this recommendation needs more work. By timely notice he meant that the CAC needs to be looped in and it cannot be done if the CAC is not given enough time to respond. It needs to be notice that is meaningful where the two can confer. Phil Wagenknecht stated that "timely notice" is language from their MOU (memorandum of understanding). The idea is that the notice is real, meaningful notice. Krish Mohip asked Kim Mangiaracino about her thoughts.

Kim Mangiaracino stated that she believes this is problematic and is undoing a lot of what was done with the legislation last year. It places a lot of judgement in the situation rather than in policy and laws. Kim Mangiaracino stated that when judgement is placed rather than policy and laws, it becomes difficult because we are speaking about a whole state of people with different judgement. Kim Mangiaracino stated that we are still allowing school officials who are not trained forensic interviewers and are not trained investigators to interview children. The law is that if new evidence comes in, that must be reported to DCFS. That is a new investigation because that is new information. They may tie it into an old investigation if it is still open, but schools are mandated reporting agencies and are required by law to report that new information. She further stated that

many if not all have been in the situation where the police have stated that they are not going to investigate, but that is not proper investigative procedure. It is proper for them to say we have new information; therefore, we need to go forward. Kim Mangiaracino shared that if she were looking at this and they reported it to DCFS and to the police and they closed their case because it does not rise to the level where it needed to, she understands the investigation should continue for the policy and procedures of the school. She further added that this is the possibility of the Chicago Tribune scandal happening all over again where kids are being interviewed improperly.

Tierney Stutz stated if one is at the point of needing to interview a child to gather information to inform the process that you are obligated to conduct, then you are at a place where the formal system for where there are statutes identifying the rules and procedures should be in place. If there is information that makes you suspicious of maltreatment of a child, then the process of an investigation of reporting that to DCFS should be the very first step taken. Tierney Stutz shared a story of a teacher grabbing a student by the hoodie and DCFS conducted the investigation and the investigation was unfounded. While it certainly is not a behavior a teacher should remain employed if they yank and pull children by their hoods, but that is not enough to indicate and unsure they need another investigation if in fact they need additional clarification of the incident. She shared that she is not sure if what she described is the most egregious example to describe why one would not need to re-interview.

Phil Wagenknecht stated that his office would not investigate that because they focus more on sex-based incidents and low-level sexual nexus. He further stated that this recommendation is more focuses on sexual assault. The school districts have an obligation under Title IX. Phil Wagenknecht stated that this recommendation has been proposed for a couple of months now and it has been presented at several meetings and all have heard and read it. It has been presented at the (response) committee meeting and at the big (taskforce) committee meeting and this is the first time he has heard that it is problematic. This is what we are currently doing with the CAC in Chicago. This was contemplated at the time the legislation was put forth last year. Phil Wagenknecht further added that he does not think this is prohibited by the recent legislation and believes it is in line with legal responsibilities. If the committee does not like this language because it is not best and does not want to make this recommendation to the Taskforce, he will oblige. Phil Wagenknecht stated that conducting a second interview is not against the law right now based on the state of the law. If the committee wants to add legislation that makes it against the law, he stated that would be problematic from a Title IX standpoint and in conflict with federal law. It was an issue that came up last year and perhaps why the language in the legislation was modified to make sure it was not infringing on Title IX obligation.

Krish Mohip stated that just as a reminder we are making recommendations. This recommendation comes from a place where law enforcement sometimes feels that there

is a need to further question a victim. While we may be making the recommendation, it is not up to us to implement this.

Phil Wagenknecht apologized for becoming defensive and understands that people are coming from different positions and there are people who think there should never be a second interview; he respects that. He stated that if the members are not comfortable with this recommendation, it can come out. In Chicago this practice is happening, and it is required by the law.

Tierney Stutz stated that she is not saying that second interviews should not happen. She clarified by saying that if there is concern that a child needs to be re-interviewed regarding an incident then the question must be answered is there is sufficient maltreatment of a child and if so, the (DCFS) hotline must be called. It does not mean that the second interview should not happen, it just means that the investigation should not be moving forward without the entity directed by the government to investigate such incidents.

Kim Mangiaracino agreed with Tierney Stutz. She further added that any new information needs to go through the same process. She further stated that part of the problem could be the language being used for the term, interview. As a person who formerly interviewed victims, an interview has a very thorough process. Collecting information later is different. She stated she is worried when the interview is conducted by an untrained person with different ideas, motives, or ill-will it could potentially expose students to trauma and poor investigations because we may not get the information we want. Part of the issue could be the word "interview" because that could be anyone talking to someone and collecting information. Her concern is how children are talked to in the face of an investigation. That is why CPS was where they were last year because children were mistreated by the way they were talked to by people who were conducting the investigations in the schools. She stated she wanted to be clear about why she is hesitant and believes that most people do not have ill will. She added that even trained forensic interviewers make mistakes in interviews, but the good thing is when there is a team there involved, there are others around. Her fear always is when other people are not around, and one-on-one conversations are happening unrecorded so that anyone can see what was said and done. That is why those recommendations and that law were put in place. She ended by saying that when new information is brought up, it must be reported.

Phil Wagenknecht stated that he agrees that new information must be reported to DCFS and law enforcement and that can be added to the recommendation. CPS reports the evidence. They subpoena more information and in response to the subpoena they have damning evidence that warrants an interview. They then may tell the authorities about that and they may decline. If they decline, the school still has a responsibility to Title IX. Kim Mangiaracino shared that that is important language to include in the recommendation that must be reported and if declined the case should be reopened so that the school district can continue the Title IX investigation.

Phil Wagenknecht stated that he has no objection to that.

Krish Mohip asked for Phil Wagenknecht to include that to the existing recommendation. He stated that the recommendation should remain and is a good recommendation to propose to the Taskforce. From a school setting, there are times when we would want to re-interview to set aside specific guidelines to work with law enforcement, speak with CAC, and report to DCFS. Those are all important to add to the language for the General Assembly to consider.

Krish Mohip read recommendation 2: Expand the investigative obligations of school districts under Title IX in cases where an incident may not rise to the level of a police or DCFS investigation or where the police or DCFS have suspended or closed their cases.

Phil Wagenknecht explained that originally the language was to remind school district that they had an obligation to investigate these matters to ensure that in cases when the DCFS or the police decline to investigate that the school district still has an obligation to pursue those matters and appropriately respond to make sure that sexual abuse and harassment is not happening in schools. Originally, it was emphasizing this reminder that school districts have this obligation already under federal law. It was also brought up in follow-up calls, that maybe Illinois should go farther and put in additional requirements. That school districts in Illinois should investigate more things that are required under Title IX and the Title IX scope is too narrow, therefore, that is why the word "expand" is included. Phil Wagenknecht stated that he was unable to put together articulate and meaningful language on that and if that was something the committee was interested in including. He thought it was a good thing to remind school districts that they need to respond to allegations of sexual abuse. How that requirement is articulated and navigated according to federal law could be a legal morass. He shared that it is possible for the legislature to put together their own going above and beyond Title IX package to put more onus on school districts.

Krish Mohip asked if any members had any questions or concerns. Members did not have any questions.

Krish Mohip read recommendation 3: Expand the definition of "Grooming" to include conduct outside of electronic communication.

Phil Wagenknecht explained that Dan Wright believed that the best way to address this recommendation and the subsequent recommendation which was changing legislation to raise the age of consent. Dan Wright believed that there were previously proposed bills to address that and he thought the answer might be to recommend that those bills be reintroduced.

Jaime Brunnworth stated that the bill introduced in 2019 was for expanding the language to grooming. Previously, it stated though computer usage or electronic

communication. The previous bill that was submitted was to include the language that it can also include grooming through in person and/or through verbal communication. Instead of reinventing the wheel, Dan Wright's thoughts were to recommend reintroducing the bill and including the specific language.

Krish Mohip stated that that made a lot of sense to him.

Kim Mangiaracino stated that the same recommendation was made by DCFS and the two can be pulled together. In DCFS and criminal code, all the grooming is electronic so that is a great pairing.

Krish Mohip stated that was a good addition because grooming can happen outside of digital.

Krish Mohip read recommendation 4. Increase the age of consent from 17 to 18.

Krish Mohip stated that this was what Phil Wagenknecht just explained about the reintroduction of the bill.

Jaime Brunsworth added that both Dan Wright and she were trying to locate the bill but could not.

Phil Wagenknecht stated that Dan Wright was going to follow up with the State's Attorneys Association along with checking with the DuPage County State's Attorney's Office on whether they had input.

Jaime Brunsworth stated that she was unable to find a bill when doing online research, but Dan Wright felt confident that it exists.

Kim Mangiaracino stated that a person in authority is 18. Last year, it was proposed to increase that to the age of 21 and if school personnel and a student have a relationship it would be considered criminal. Currently, 17 is the age of consent criminally. DCFS can go up to 18 if it is a person of authority. She remembers it being referred to as Romeo and Juliet.

Krish Mohip stated that Senator Curran was willing to help locate this bill, so he will reach out to him.

Krish Mohip read recommendation 5: Improve the training of staff members on what to do when he/she is aware of child maltreatment (sexual abuse, physical abuses, grooming) by a staff member, other student(s), or by someone outside the organization. Krish Mohip read the brief explanation of the recommendation. He further shared that he does not mean to upset anyone on the call with this but after intensive conversation with Janiece Jackson, staff is trained annually on what to do but continue to demonstrate

a lack of understanding of what to do when faced with this. This entire recommendation is aligned to how to better train staff and how to increase the rigor of mandated reporter training: whether the trainings can be in person and if that cannot, then look at system used in DCFS where staff can no longer click through and receive a certificate of completion but rather measure one's knowledge in a meaningful way so that when one completes the training there is a true understanding of the material. He also explained the teacher's certification system where we work with universities to include this training in their classes as well as when they take their certification and recertification exam to indicate they have a good understanding of sexual abuse and sexual abuse reporting. Krish asked if there were any questions.

Kim Managiarcino indicated that she thought the recommendation was great.

Krish Mohip read recommendation 6: Create a state-wide tracking and database system that manages employee information specific to grooming, physical or sexual abuse, pending investigation(s), and/or accusation(s) so that when an employee transfers or leaves for another job in the state, there is a way to inform the prospective district of this employee's history. He also read the brief explanation: The purpose of this recommendation is to eliminate the opportunity for teachers who are under pending investigation for child maltreatment to transfer from one district to another and to hold those teachers accountable. Currently, many school districts/schools conduct background checks to ensure a potential hired candidate is a good fit for the position. Part of the background check should include that the prospective school district ask the previous school district whether the potential hired candidate has ever been the subject of a sexual and/or physical abuse investigation, grooming investigation, or child maltreatment investigation. In addition, the current school district should be forthcoming with any information regarding child maltreatment when asked to complete a background check on an existing employee. To ensure trustfulness of candidates, new hires should complete and sign a form indicating that he/she is not under pending investigation for child maltreatment, sexual or physical abuse and/or grooming behavior towards a child, and/or has never been accused of child maltreatment, physical or sexual abuses and/or grooming behavior of a child, and/or has any information in their personnel file indicating of child maltreatment, sexual or physical misconduct, and/or grooming behavior of a child. He shared that he can see this recommendation being debated, but it was important to present and move the recommendation forward because he strongly believed that employers should have a strong understanding of an employee before making the hiring recommendation.

Kim Mangiaracino stated that this recommendation is very important even though there was a lot of pushback when this was discussed last year. Much of the pushback came from the unions and principal associations with valid points, but it is important to make the recommendation and speak with those organizations. While we all want to protect kids, we also want to protect our employees too especially if they have not done anything wrong. It is a fine line because we do not want to come off one sided. If a child

says something, an adult's life should not immediately be over. That is the reason there is an investigation and a process; however, being able to somehow document a conversation was much of what was discussed last year. Kim Mangiaracino stated that the recommendation was broad enough where it invites discussion among all parties.

Krish Mohip stated that he fully expects this recommendation to be shot down, but the group felt strongly to put this in a recommendation form and allow the General Assembly to decide whether they want to move forward.

Athanasia Albans stated that those are all the recommendations on the list. There was one recommendation this committee brought forward about a code of conduct. Krish Mohip spoke to Char Rivette from the Prevention Committee, who had proposed a similar recommendation. Instead of making the recommendation twice, those two were combined and will be proposed by the Prevention Committee.

Kim Mangiaracino asked if the DCFS grooming recommendation is still included.

Athanasia Albans stated that the only recommendation included was about expanding grooming and reread the recommendation.

Kim Mangiaracino indicated that was not the recommendation she was referencing even though it much mirrors recommendation 3 on grooming. She stated it is more about changing the DCFS allegations. She stated that she would use the narrative format to include the recommendation on the list.

IV. Public Comment

There was no public comment.

V. New Business

There was no new business.

VI. Adjourn

There was no motion to adjourn. The conversation ended at 9:05 am.