M E E T I N G N O T E S

Statewide Substance Use Response Working Group **September 18, 2023**
Response Subcommittee Meeting **9:00 a.m.**

Zoom Meeting ID: 868 3331 1069
Call in audio: (669) 444-9171
No Public Location

Members Present via Zoom or Telephone
Dr. Terry Kerns
Shayla Holmes
Christine Payson
Dr. Stephanie Woodard
Vacant spot – SUD Treatment Provider

Members Absent
None

Attorney General's Office Staff
Rosalie Bordelove and Ashley Tackett

Social Entrepreneurs, Inc. Support Team
Crystal Duarte and Madalyn Larson

Members of the Public via Zoom
Teresa Benitez-Thompson, Morgan Biaselli, Hannah Branch, Trey Delap, Ryan Hamilton, Elyse Monroy, Joan Waldock

1. Call to Order and Roll Call to Establish Quorum
Chair Kerns called the meeting to order at 9:02 am.

Ms. Duarte called the roll and established a quorum.

2. Public Comment (9:04 am) *(Discussion Only)*
Chair Kerns asked for public comment.

Ms. Duarte read the public comment guidance.

No public comment was provided.

3. Review and Approve Minutes from August 21, 2023 Response Subcommittee Meeting (9:06 am) *(For Possible Action)*
Chair Kerns asked for a motion to approve the August 21, 2023 Response Subcommittee meeting minutes.

- Ms. Payson made the motion;

- Ms. Holmes seconded the motion.

At 10:29 a vote on the minutes was taken.

- Dr. Woodard voted to approve the minutes in form, but not content, as she was absent from the August 21, 2023 meeting;
- The motion passed unanimously.

4. 2023 Response Recommendation Discussion (9:07 am) *(For Possible Action)*
Chair Kerns read the 2022 Response Recommendations 1 and 2 which were discussed at the last Response meeting, please see this document for the meeting minutes from the August 21st Response Subcommittee meeting. Chair Kerns read the 3rd and 4th recommendations. Please see this document for more information on these recommendations.

- Support legislation to establish a statewide and regional Overdose Fatality Review (OFR) committees and recommend an allocation of funding to support the OFR to effectively identify system gaps and innovative community-specific overdose prevention and intervention strategies in accordance with established best practices such as the *Bureau of Justice Assistance's Overdose Fatality Review: A Practitioner's Guide to Implementation.*
- Fund personnel and resources for independent medical examiner(s) for investigations and reports to specify the cause of death in overdose cases.

Chair Kerns asked for Trey Delap to provide information from the 2023 legislative session on the OFR recommendation.

Mr. Delap gave an overview of AB132 and said the original intent was to use the State's review processes for things like suicide, infant fatality, and other fatalities as a model and apply it specifically to opioid fatality reviews. The difference in this proposed legislation was for it to be done at the community/local level.

He noted the barrier was understanding what an opioid fatality review really is. This bill had favor in the Assembly but not in the Senate, where there was strong opposition because of the staff time needed. Counties weren't sure about how this would operate and were concerned they didn't have the staff for it. In Nevada, autopsies are performed by the coroners in urban counties, which can be a big workload on only a few coroners in the state.

Additional questions that arose in the legislative process included, whether or not this would change a death certificate and if the review would utilize the Prescription Monitoring Program. There were also a lot of concerns about confidentiality. Mr. Delap expressed that the philosophical core of an OFR is to prevent overdoses and deploy resources quickly when they do happen. Other communities doing OFRs have made some really novel, interesting observations.

While this is a good policy, politics got in the way, Mr. Delap said. The resulting legislation allows for the creation of a Clark County Opioid Task Force, which is basically limited to Clark County, but the product of this may be scalable or adaptable to other counties in this state. The Taskforce will produce a report in 2024. Clark County is currently soliciting applications for members.

Chair Kerns said that Clark County has agreed to do this Task Force – will they push a report out to figure out if this is adaptable as part of their deliverables?

Mr. Delap said they don't consider this an opioid fatality review as this may also include opioid reversals not just fatalities. The results are due in a report form by December 30th 2024 to the Governor's Office and included in that is what they came up with when they looked at data and policy recommendations. To know if this is adaptable to other counties, the report should note this. But, we have to recognize Clark County is a large urban area and other rural areas are not totally comparable. The most valuable piece would demonstrate the practicality behind scaling this to smaller counties.

Chair Kerns said she has seen OFR being done at the county level as opposed to the state level. Do you have a recommendation?

Mr. Delap said there was an interesting variety of how OFRs were designed in various states – there was one where a university that lead it and in Kentucky they only had one for prescription medication – which may be a rollover from the emphasis on prescription drugs. It is super important the community is involved in this since they can move much faster to get things done.

Chair Kerns asked Dr. Woodard if OFRs were a part of the state plan?

Dr. Woodard said yes, it has been outlined as a best practice in the state plan. They can look to fatality reviews by death by suicide and because of the richness of this information they can see where there may have been missed opportunities.

Chair Kerns said maybe we should continue to follow this because Clark County will be doing this work and then we can understand if this is scalable to other Nevada counties. Washoe County may be the next one who can take this on.

Dr. Woodard said the guidance on operating an OFR is relatively flexible. Moving forward, it will be important to promote the flexibility of the guidelines being adaptable. She would like to see us supporting this recommendation.

Ms. Holmes said she supports this recommendation and to keep this flexible to the community and local level. She said the children's fatality review board is proof we can do this at the local level.

Chair Kerns said it sounds like we want to continue moving this one forward and add in flexibility and that it should be done at the community level. She noted there is important language already in there to look at prevention and intervention strategies.

Mr. Delap said there are 15 members that make up an OFR committee and that is something to consider, as rural areas may not have 15 different people. To lay out what Clark County Opioid Task Force is going to do includes reviewing data, identifying gaps, identifying statewide databases about harm reduction and substance use, and to look for trends including social

determinants of health, and to collaborate with other partners to prevent overdoses. We also want to make sure cultural competency is included in this.

Chair Kerns said she agrees with this. She asked Ms. Bordelove if we have to do individual votes on these recommendations?

Ms. Bordelove said you can do an overarching vote at the end of this discussion.

Chair Kerns said it seems like we want to move this forward and word smith it further.

Chair Kerns read the next recommendation, *Fund personnel and resources for independent medical examiner(s) for investigations and reports to specify the cause of death in overdose cases* and noted that it sounds like there may be a similar concern with this and the OFR in terms of overburdening the system. She asked if Christine Payson submitted this recommendation?

Ms. Payson said if they could find funding for coroner's personnel – this was the whole point for someone to do this job specifically. We didn't name how many personnel we needed – she said it could be on a rotating basis, someone we could compensate to do this role. She believes we should continue following this recommendation.

Dr. Woodard asked if there has been a discussion on who or how to fund this position?

Chair Kerns said we didn't have this discussion.

Ms. Payson said we did not get that deep into it.

Dr. Woodard said less specificity is fine for now, but for this recommendation to be targeted we need to know where to direct the recommendation. Questions like: whether this is a local community's recommendation or at the state level? Is there a specific agency for these funds, should be answered. At the state level, it may need to be a part of a state budget request for the state biennium—we have to be thoughtful of how we approach this recommendation for funding.

Chair Kerns asked Ms. Payson if there has been discussion about this at the Washoe County or Clark County coroner's offices?

Ms. Payson said no. She wants to see if we can target this toward the drug induced homicide cases, since there would be a greater chance at prosecution?

Ms. Holmes said she knows that with her local law enforcement they don't have the funding to test all confiscated substances – they aren't necessarily prosecuting cases to the level they could be because they are only testing things that they think have fentanyl in it. She thinks making this recommendation to only investigate drug induced homicide may miss some information and would not investigate the full scale of the deaths. It may be of our best interest to keep this to overdose cases – she said we should not live in scarcity just because we don't have the funding.

Chair Kerns has a similar thought to what Ms. Holmes said. The fear is that there may be data missing and that funding another person could fill this gap.

Mr. Delap said the coroners do a comprehensive drug screen panel to find everything possible in the system of the person who died. AB132 got gutted twice and some of the concern is that if we created an independent review, that could refer certain cases and this highlights that the purpose of this process is to identify opportunities to prevent overdoses. He gave the example of what if some wealthy family decided to defer to this process about why their family member died? He noted the product of an OFR can do nothing for criminal or civil action. We have to be mindful about who may have a different cause of death – which may change death certificates and this would be of concern.

Ms. Payson said if they have poly substances in the system, they will have to know what caused the death rather than just a panel of anything that is on board.

Dr. Woodard said it seems like the conversation we are having here is that we need more information and specificity before we can form a coherent recommendation—we know just enough that we want to pursue this but we need more information to make any conclusions.

Chair Kerns said we need to know what is being tested and how it is funded to move forward. We have more work to do on this recommendation.

Chair Kerns read the "for further review" recommendation about the Good Samaritan Law and said we will push this into the 2023 recommendation discussion because there is overlap.

Chair Kerns read the "Summary of Response Subcommittee Recommendations Under Review" and said we may need to look at public messaging and media campaigns for resolving the Good Samaritan Law, which may be a way we can move this forward.

Dr. Woodard said this recommendation was something to just keep in mind. This is relatively aspirational (because we can't fully get people to understand this law), so in this spirit we can look at this to promote the Good Samaritan Law and educate the public to have measured success, because she said we probably can't resolve this entire thing.

Chair Kerns said she would like to push this to the Joint Advisory Task Force to look at public health messaging.

Ms. Holmes agreed that we need more messaging and communication for the Good Samaritan Law, but she has some concerns on all of the "if, then" statements within the language of the law. The population who needs to buy into this are the ones who are actively using drugs so they can utilize this law appropriately. She said there is still more work to be done to clarify the nuances of this law. She said we need to push this to the Task Force, but we need to investigate where we need to clear up misinformation.

Chair Kerns said she looked at the areas the subcommittee needs to fill in and noted that we know qualitatively those who are not calling out of fear of arrest, but from what we have heard

from committee members is that there are not a lot of cases of people who called during an overdose. But the reality is we don't have a quantitive number of people who are dying from overdoses because people don't call or those that are getting prosecuted from trafficking. Media campaigns for law enforcement wouldn't be difficult but we need to provide accurate information. The urgency is important and done properly for the targeted audience. The racial and health equities would address people who use drugs and those who experience overdoses.

Ms. Holmes said she would like to move forward this recommendation but noting somewhere that there needs to be additional work done to get this data filled in. Who overdosed and didn't call are tricky to acquire information. She doesn't know how we would get this info, but she would like to move this recommendation forward.

Ms. Monroy said she does not have any more information on this data from Overdose Data to Action (OD2A). The report the subcommittee may be looking at is what Dr. Wagner and Femi were working on.

Chair Kerns said we need to refine the language and move this to the Task Force. We may need to target training toward law enforcement, as well.

Dr. Woodard said the word she keeps coming back to is "media" and very targeted messaging towards those who use drugs and to law enforcement. She said if at some time we can come back and word smith this we need to clarify if this is public health messaging/training compared to media.

Chair Kerns agreed with this. She likes public heath messaging and training toward a specific targeted audience (i.e., law enforcement, people who use drugs).

The recommendation as revised is:
Request the recommendation to "Resolve the conflict between the Good Samaritan Law and the Drug Induced Homicide Law" be considered by the Joint Advisory Task Force to look at public health messaging best practices to educate the public on the Good Samaritan Law and create targeted messaging for people who use drugs; this should also include education and training for Law Enforcement.

For further review: *The Response Subcommittee will investigate where inadequacies exist in the Good Samaritan Law.*

Chair Kerns said the committee will push this forward to the Joint Agency Task Force, but we will still need to do more work through looking at the statues.

Chair Kerns talked through recommendation #2 which was submitted from Ms. Holmes and was also about resolving the conflict between the Good Samaritan Law and the Drug Induced Homicide Law. She said recommendation #1 captures this and that the subcommittee should keep in mind Rhode Island and Delaware as examples for a recommendation around these two laws.

Chair Kerns read recommendation #3 regarding SUD/MH/MOUD assessment, treatment, recovery support pre-release and case management availability in incarcerated settings (see this document for initial language). She asked for Dr. Woodard to add support to this.

Dr. Woodard said that what we know is that an 1115 waiver is one thing, but another thing is figuring out the stance of readiness by the organization providing the waivers. She said this work is already being done in some capacity through a needs assessment for jails. The second piece is to "recommend the allocation of funding to support the development of a Medicaid re-entry of Medicaid 1115 waiver to increase healthcare for people leaving carceral facilities to implement the 1115 waiver."

Chair Kerns asked if our state has been approved for the 1115 waiver?

Dr. Woodard said we have an 1115 treatment waiver that has been approved by CMS. This is a new waiver the state would need to apply for, though.

Dr. Woodard said the first is to recommend legislation to apply for this specific 1115 demonstration waiver through the Department of Healthcare Financing and Policy – this is an essential component. The assessment for readiness is also important to consider for pre-planning and implementation support.

Chair Kerns asked about when the assessment for implementation for MAT in jails would be completed?

Dr. Woodard said this should be wrapped up by January but Dawn Yohey can give a more concrete date. She noted we don't want to wait to do this work but rather to prepare this system to help those who are incarcerated.

The recommendation as revised is:
Evaluate current availability and readiness to provide comprehensive behavioral health services to include but not limited to screening, assessment, treatment, recovery support, and transitions for reentry in local and state carceral facilities.

Recommend the allocation of funding to support the development of a Medicaid Reentry Section 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and to support readiness of carceral facilities to implement the 1115 waiver.

Recommend legislation to require DHCFP to apply for and implement the 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and ensure there is an evaluation of readiness for planning and implementation.

Chair Kerns read recommendation #4 regarding wastewater-based epidemiology (see this document for initial language).

Ms. Holmes said she has not word smithed this recommendation yet. But, it is in our best interest to move forward with this recommendation for further review. We need to figure out the actual costs because the benefits sound great but we need to know the true cost to move this forward.

Dr. Woodard said this reminds her of the quote "drowning in information but hungry for wisdom." She agrees wastewater-based epidemiology (WBE) is helpful, but we may not be currently using the data we already have effectively. She isn't sure that wastewater-based epidemiology is actionable. She wants to understand the best practices for using this data because we already have so much surveillance going on.

Ms. Holmes agrees that we have tons of information and data (i.e. ODmaps) – but we didn't get the local level buy in so what has been put into place is almost great, but it isn't real time and she doesn't think any of the rural communities can utilize the spike plans. We don't have good mechanisms for real time action – we can go back to community-based buy in with the ODmaps. WBE isn't just for overdoses, but for any of the prescription drugs and anything else that is happening in almost real time within 24-72 hours and can be understood in a pinpoint location. But she agreed with Dr. Woodard, we may not be equipped to have this information right now. We can build these plans but how can we really use them is the question.

Chair Kerns said we need to optimize the available data to inform the actions and update the community response plans. We also need to look at the best practices and figure out the true costs of WBE. Which could be almost two separate recommendations. We need to research this more.

Ms. Holmes said we have to have the action step tied to it like Dr. Woodard said.

Dr. Woodard said her understanding for the Joint Advisory Task Force is to do what Ms. Holmes is talking about to better utilize the data and spike plans to be able to respond.

Chair Kerns said she thinks this is a good idea for the expansion of the current programs.

Ms. Holmes said we need to be aware of what the Joint Advisory Task Force is choosing to do and she would hate to abdicate this recommendation to the Task Force and then they may not want to do exactly what we want to do. If they don't pick it up, we don't want to lose this recommendation either.

Dr. Woodard said we need to add language in to make sure it stays on our plate just in case the Task Force does not pick it up.

The recommendation as revised is:
Understand the true cost of implementing wastewater-based epidemiology (WBE) in Nevada and its ability to support community response plans.

Recommend the Joint Advisory Task Force optimize available data to inform actions and update community response plans. Should the Task Force not take this recommendation up, the Response Subcommittee will move this recommendation forward.

Chair Kerns read recommendation #6 to leverage existing programs and funding to develop outreach response provider(s) and/or personnel that can respond to any suspected overdose (see this document for initial language). We do have some of this work already existing in some places within our response teams, but she doesn't know if there is any crossover with crisis response.

Dr. Woodard said yes and no to this. In an ideal crisis system, it would be great to respond with necessary supports. We need tailored interventions for individuals who have survived an overdose. Ensuring that whatever the crisis system is developing includes those who have survived a non-fatal overdose. We need to ensure this recommendation is included for the crisis system build out.

The recommendation as revised is:
Leverage existing programs and funding to develop outreach response provider(s) and/or personnel that can respond to any suspected overdose or to those who are provided treatment for an overdose in a hospital/emergency room/EMS and offer follow-up support, referrals, and services to the individual (and loved ones) following an overdose. Provider(s) and/or personnel to be deployed to anyone being released from institutional and community settings (e.g., hospitals, carceral facilities, and other institutional settings) who is being discharged post overdose or suspected overdose. Ensure this recommendation is included as the build out of Nevada's Crisis Response System is occurring so that tailored intervention for individuals who have survived a non-fatal overdose is included.

The last two recommendations to discuss today are those that were re-introduced from the 2022 Response Subcommittee Recommendations.

Ms. Holmes said for the recommendation regarding an OFR, we may need a regional approach rather than a county level because this may be too overwhelming for counties.

Dr. Woodard said keeping it at the county or regional level makes sense. Saying community level can be defined in many different ways so we need to have this at the county or regional level. Behavioral health regions are already well-defined, which we could use too.

The recommendation as revised is:
Review the operations and lessons learned from Clark County's Overdose Fatality Review Task Force when that body's report is released in December 2024 and take this into account when supporting legislation to establish regional Overdose Fatality Review (OFR) Committees allowing flexibility as to the makeup and practice and for the OFR to remain at the county or regional level, as needed, to effectively identify system gaps and innovative community-specific overdose prevention and intervention strategies in accordance with established best practices such as the Bureau of Justice Assistance's Overdose Fatality Review: A Practitioner's Guide to Implementation.

For the recommendation on independent medical examiner(s) for investigations we need to get more information for what substances are currently being tested and where the funding is coming from. We want to move this forward, but we need more information.

The recommendation as revised is:
Understand what coroners and medical examiners currently test for and make recommendation to a specific agency or other sources to fund personnel and resources for independent medical examiner(s) for investigations and reports to specify the cause of death in overdose cases.

Ms. Duarte noted there is additional information needed for each recommendation and made a proposal for subcommittee members to fill in additional details for 2022 and 2023 recommendations via email.

Chair Kerns asked for a motion to approve the language of these recommendations.

- Dr. Woodard made a motion to move these recommendations forward from the Response Subcommittee as revised;
- Ms. Payson seconded the motion.
- The motion passed unanimously.

5. **Discuss Report Out for October SURG Meeting (10:41 am)** *(For Possible Action)*
Ms. Holmes explained the recommendation language we discussed today is what will be presented by Chair Kerns to the entire SURG on October 11th. Then at that point in time those who have sponsored each recommendation will be able to provide more information and there will be an opportunity for the entire SURG to have a conversation about the recommendation together. If there is anyone with opposition, we will make sure their voices are heard.

6. Public Comment (10:42 am) *(Discussion Only)*
Chair Kerns asked for public comment.

Chair Kerns read the public comment guidance.

No public comment was provided.

Chair Kerns thanked Dr. Woodard for her work on this subcommittee.

7. Adjournment
The meeting was adjourned at 10:44 a.m.