STATE OF NEVADA RIGHTS OF VICTIMS AND SOURCES OF FUNDING FOR VICTIMS OF CRIME SUB-COMMITTEE

MINUTES OF MEETING

Thursday, June 17, 2010 at 2 p.m. via phone conference

Members Present via Phone Conference

Maxine Lantz, Andrea Sundberg, Ben Felix, Michele Young, Dorene Whitworth, and Elynne Green

Attorney General's Office Staff Present via Phone Conference

Catherine Cortez Masto, Chair
Vic Schulze, Sr. Deputy Attorney General
Kareen Prentice, Domestic Violence Ombudsman
Vicki Beavers, SLS

1. Call to order and roll call of members.

Attorney General Catherine Cortez Masto (AG Masto) called the meeting to order via conference line at 2 p.m. and roll call was performed. There was not a quorum. [Deputy Attorney General Henna Rasul appeared at 2:15 p.m. and confirmed that although there was no quorum, those present could discuss the agenda items as long as there was no action taken.]

2. Review and approve minutes from May 21, 2010.

This matter is tabled to the next meeting.

3. Liz Greb, Grants and Projects Analyst, Office of the Attorney General and Ben Felix, Crisis Call Center, regarding discussion recommending a BDR to clarify the Sexual Assault forensic Exam statutes.
[Taken out of order.] [Ms. Greb was not present.]

AG Masto explained that this meeting was called for the specific purpose of reviewing the two potential BDRs discussed at the 5/21/10 meeting.

AG Masto would like to see if this committee wants to pass or recommend those BDRs to the Advisory Commission for the June 23, 2010 work session. Since there was no quorum AG Masto asked that the committee just to discuss the two proposed BDRs and answer her questions without deliberating or voting on any issues. AG Masto also expressed her concern that the proposed BDRs might result in changes to the statutes with unintended collateral consequences.

Dorene Whitworth explained that the statutes pertaining to who pays the cost of medical care for victims of sexual assault now reads if a victim of sexual assault presents to the hospital and has other related injuries, such as a broken limb, the hospital will initiate a forensic exam upon her request but they'll also treat her for those other injuries. The county currently is responsible for those costs based on the way the current statute is written. Dorene explained that the VAWA compliance issues have to do with the fact that the Nevada Revised Statutes are void of any language that state that the victim does not have to file a police report in order to be eligible for that forensic medical exam.

Furthermore, there appears to be some confusion with NRS 217.310 and 449.244 regarding *initial* medical care versus *additional* medical care. NRS 449.244 addresses the counties' responsibility to pay up to $1,000 for the initial emergency medical care for the victim. NRS 217.310 addresses payment of costs for medical care over and above that initial emergency medical care (for instance, psychological care for the victim and/or her spouse), but requires that the victim file a police report. The confusion between the two statutes is causing some counties to believe they are responsible for paying only $1,000 for all the medical treatment of a sexual assault victim and only if there is a police report. There was further discussion about the intent of the $1,000 cap in the 449.244 statute and the meaning of the term "after care."

AG Masto expressed a concern with 217.310(4) requirement of a police report as well, but believes that the proposed language change does not address the problem as to VAWA compliance. Discussion continued about the intent of the original statutes. Dorene responded to AG Masto's inquiry with the information that the last revision of NRS 217.310 was in 1985 when there was a study done by the legislative commission which was looking specifically at the same issues. The confusion in interpreting NRS 217.310 seems to be in whether or not it applies to costs over and above the cost of the initial emergency medical treatment. Dorene stated that initial treatment begins the day a victim walks in the door of the hospital, whether it is the day of the actual incident or the next day, and that treatment is paid for up to $1,000 by the county pursuant to NRS 449.244.

Dorene believes that the legislative history seems to indicate that there was never an intention for there to be a $1,000 cap on initial emergency care treatment for a sexual assault victim; that the $1,000 was intended to cover after care. AG Masto suggested that perhaps the definition of "initial emergency care" needs to be clarified.

Maxine offered that in previous discussions it was believed that the $1,000 cost payment was supposed to be for necessary care (such as for a sexually transmitted disease) after the victim had already received initial treatment. What has happened, however, is that smaller counties are saying there is a $1,000 cap on everything, and they are declining to pay bills presented to them that exceed that $1,000 cap. So Maxine's understanding is that the intent was to make sure there was money available for a victim to go to a therapist, and also be able to go to their own physician or anybody who can help her with treatment if she has contracted an STD or anything along those lines.

AG Masto suggested that perhaps it would be cleaner and easier to simply change the current language in NRS 217.310 to say that "any victim of a sexual assault requiring medical treatment from physical injuries as a result of the sexual assault in addition to those costs covered under NRS 449.244," and take out, "in addition to any initial emergency medical care." Using less words instead of more words (as in the proposed BDR) might deflect any unintended collateral consequence. AG Masto clarified the intent of the BDR to be that the initial emergency medical care provided by a hospital to a sexual assault victim has to be paid for by the county no matter how high those costs are or when the assault occurred. If there are additional physical injuries that require treatment (like a broken arm), then the county also pays for that. The county will also pay for after care for a victim and/or a spouse (such as psychological care) up to a $1,000 cap and can require that the victim provide an affidavit justifying that after care before the county will pay for it. AG Masto also suggested that it might also be helpful to define "initial emergency medical care" and "forensic exam."

Maxine stated that she believes that the counties should be responsible for paying "fair and reasonable costs," to a hospital rather than having a $1,000 cap since a cap might result in the victim being billed for the additional hospital cost unless the victim files a police report and requests financial assistance through Victims of Crime. AG Masto agreed, but stated that substituting "fair and reasonable costs" for the $1,000 cap might cause the counties to complain to the legislature that the costs they are expected to pay are out of control. The key will be the definition of "fair and reasonable."

AG Masto asked if the $1,000 cap should be considered reasonable in controlling those costs. Maxine responded that the $1,000 cap has been sufficient in the past because once that resource is depleted the victim usually has already reported and the Victims of Crime money will cover if costs exceed the $1,000. Most therapists are very cooperative in accepting whatever compensation is available, which is usually below their normal rates, and often that $1,000 cap is never reached. A few counties have suggested to Maxine that "fair and reasonable" costs might be defined to match what Medicare would cover in similar circumstances. The counties are not balking at paying the cost; they would just like clarification of what protects them. When commissioners see a hospital bill for a victim, they want to be able to have the backing of the State saying that if a person gets their leg taken off the county is not responsible for paying for their life until they are on social security.

AG Masto inquired if anyone had a problem with the language of NRS 217.310(4), which requires that a police report be filed before a sexual assault victim can be compensated for "after care" treatment – psychological treatment for the victim or the spouse, etc. Dorene stated that she does not have a problem with that, that the language they are trying to add mirrors the new language in the Victims of Crime compensation guidelines which say that a forensic medical exam is the equivalent of filing a police report when it comes to eligibility for after care compensation.

Discussion continued regarding the language contained in NRS 217.300 which states that a county must pay for the costs incurred for medical care for an assault victim which is provided to the victim "not later than 72 hours after the victim first arrives for treatment." There was some concern expressed that treatment provided to a victim within "72 hours after the victim first arrives for treatment" could mean that a county would be responsible for the cost of initial medical care even though the victim might not present to the hospital until some days after the actual incident occurred. Since current medical procedures will successfully collect forensic evidence up to seven days after an incident it was agreed that NRS 217.300 language needs to be modified to change the language "within 72 hours" to "within 7 days" after the victim first arrives for initial medical care.

Dorene explained that VAWA does not address the emergency medical care. VAWA mandates that a forensic medical exam occur with no cost to the victim and no requirement that the victim cooperate with the criminal justice system. The victim has the option to choose whether or not she will have a full exam or if she's just going to be treated for her injuries. Currently, the statutes say nothing about receiving the initial medical exam or the forensic exam without a law enforcement report. The suggested

added language to NRS 449.244 will state that a victim must not be required to cooperate with law enforcement in order to receive a forensic medical exam.

AG Masto suggested that this issue be tabled until the next board meeting and that board members consider the following: 1) A recommendation on a definition of emergency medical care; 2) A cap amount and any other thoughts members might have on that. AG Masto will also contact lobbyists from Washoe, Clark and the rural counties as well as the hospital association to bring them into this discussion. If some agreement can be reached on this bill and every agency that has a stake in it is in support of it, AG Masto will carry it as one of her bills. She will also poll the legislators and see if any would be willing to carry this BDR.

4. Vic Shulze, Sr. Deputy Attorney General, Office of the Attorney General, regarding discussion recommending a BDR to address new standards for the issuance of pick up orders by family court judges for abducted children, modifying NRS 125.470 to meet constitutional standards.
[Agenda Item No. 3, taken out of order]

Vic informed the committee that as a result of his last meeting with a family court judge, the judge agreed to set up a study and (hopefully) an action committee with representatives of family court judges, Vic, and the director of the self help center to develop some internal procedures to implement the UCCKEA, which is a methodology of assisting in return of missing children. The language Vic has submitted to this committee relates to that on strengthening the language in pick up orders. Vic believes that a family court committee should address the language that Vic has proposed and take it to the legislature through their process; that that would be a more appropriate forum.

5. Determine future meeting agenda items - None were suggested.

6. Next meeting – Linda will coordinate.

7. Public comment – none.
Members comment – none.

8. Adjournment at 2:45 p.m.

[Minutes prepared by Vicki Beavers]