

# VAA Stakeholders Meeting

St. Paul Police Western District Community Room  
Friday, December 19, 2008 from 12:30-4:30pm

- Welcome and Introductions
- Reviewing the Agenda
  
- Transitioning from "R and D" to Action
  - different climate since our October meeting
  - several cases in the news/media to draw attention
  - potentially other VA proposals coming forth
  
- we will be pressed to show how our legislation reflects the tragedies that happened in Albert Lea and Montevideo
  
- fortunately, there will be greater attention to the issues we are raising
  - unfortunately, it will be a bit painful and our work will be more complex
  
- moving from titles of "VAA Stakeholder Group" to the "Vulnerable Adult Justice Project" instead (more indicative of our action steps that will need to occur)
  - Public Awareness Leaders Track
    - using the incidences in Albert Lea and Montevideo to our benefit in a positive and affirming way (while people are paying attention)
    - something ongoing, rather than something that's one-shot
    - Elder Law Section of the Minnesota State Bar Association has formed a Vulnerable Adults Committee to address these issues
  - Legislative Track Team
  
- introductions one more time, for those arriving a bit late
  
- firming up the notion that this project, moving forward, will take several weeks, months, and years to accomplish (not a one-session project)
  
- there is going to be an almost exclusive attention to balancing the budget
- financially implicative items in our proposal need to be examined very closely
  - keeping reminders that when the budget is re-assessed, keeping our priorities in the face of the legislature so they don't slash necessary budgets for these important items
  
- multiple persons reserving judgment, noted by Iris C. Freeman
  
- how do we want to proceed with the subcommittees during legislative process
  - getting each of the subcommittees involved or trim down the subcommittees that are meeting and re-assess members
  - subcommittees assisting with response from legislative proposals

- legislative proposals
  - gaining consensus
  - getting drafted language from Kathy Pontius
  - Sen. Moua reviewing the draft before she'll decide to be chief author
- four pillars of our proposals
  - protect VA from financial exploitation
  - respond to emergencies when VA's are missing
  - streamline the VA reporting process
  - assure the first responders have tools to address the changing population
- Pillar 1: protect VA's from Financial Exploitation
  - encourage financial institutions to report and cooperate with VA investigations
    - clarifying the immunity for these institutions
  - develop a more consistent standard for VA's exploited via financial exploitation who then need MA services (hardship waivers)
    - maintaining eligibility to receive waiver services
    - inconsistent granting of hardship waivers AND not having a set criteria for MA and EW services granted by counties
- Pillar 2: respond to emergencies when VA's are in danger and/or missing
  - establishment of an Endangered Person Alert (similar to Amber Alert)
    - Florida's EPA was through the government, not a legislative bill
    - could the MN governor do the same thing under our laws?
- Pillar 3: streamlining the VA reporting process
  - establishment of a single CEP
    - preserve value of local, immediate response (emergency)
    - centralized intake and collection of information
    - examining this in a more developmental way
  - temporary fix: electronic submission of MDH online reports
    - modification of MDH online form to include CEP intake information
- Pillar 4: helping the first responders who assist VA's
  - amending the functional definition of vulnerable adult
  - including base standards/requirements of a VA investigation
  - educational task force from component departments/agencies to pool resources available (DHS, MDH, DPS, Ombudsman, Advocates)
    - using a term different from "task force" to avoid formalities
- other proposals directly responsive to the nursing home tragedies
  - timely enough to include, consensus for additional provisions to add in
  - strong agreement across the differing perspectives in our group
- Jennifer Wright: St. Thomas Law School Elder Law Clinic
  - should be broadly supported, no fiscal note attached
  - 7 states have a private right of action for financial exploitation (victim suing the perpetrator directly): CA, DE, FL, IA, OR, UT, WA

- getting attorney's fees paid by the other side if you win
- getting enhanced/treble damages for this sort of crime
- some states have a set penalty fine for each violation
- allowing for a creditor or third party claim of right (standing to sue)
- this is often part of the VAA statutes of each state (and this is true of the above-referenced seven states)
- Plan to Move Forward: no strong opposing voice heard today
  - consensus to include this
  - who will examine this: Suzy Scheller and Jennifer Wright
  - announce via email that those interested should contact Jennifer Wright to be on the email group (Kevin to distribute)
- Patti Cullen: Care Providers of Minnesota
  - LTC workers who observe troubling incidents, but don't necessarily know how to go about feeling out if it's reportable or not
  - adding in a dedicated 1-800 Ombudsman line for people to call and talk to someone who will help them sort through the warning signs of abuse/neglect/exploitation
  - strong support from the LTC Ombudsman office
  - or potentially a staffing increase for the LTC Ombudsman to handle increased calls for clarification
    - 1-800 # for MH/DD Ombudsman
    - 1-800 # for LTC Ombudsman
    - 1-800 # for Alzheimer's Association
    - 1-800 # for Victim Advocates
  - encouraging this contact because Ombudman are not mandated reporters (part of the Federal law) ... important for many when trying to vet some issues as opposed to calling the County CEP which staffs mandated reporters

## BREAK

- Presentation from the Criminal Code Subcommittee
  - Phil Carruthers, Amy Sweasy presenting on the proposed language
  - both Hennepin and Ramsey counties starting Elder Abuse Units
  - corrections to the Draft
    - page 1, subdivision 1
    - no reference to "609."
    - page 2, additional duties of Attorney General
      - that whole thing should be stricken (the new language)
    - 609.233 Criminal Neglect, Subdivision 1
      - "crime" inserted term (strike "gross misdemeanor")
  - Financial Exploitation of a VA
    - prosecution of the Campbell case (St. Louis County)
    - easier to prove someone did something, rather than they failed to do something they were required to do
    - Defenses

- suggestions:
  - not removing the “nonfeasance” part because there should be a criminal action for leaving the funds sit untouched
  - perhaps leaving that language in, along with the “using funds/property for the benefit of someone else”
- County Attorney Administrative Subpoenas
  - County Attorneys can administratively request some items (doesn’t substitute for a search warrant; usually types of records)
  - restricted on banking records to get
  - now, via administrative subpoena, could get banking and financial records of a VA
- Criminal Neglect
  - try to create a felony crime for the neglect of a VA
  - changing the penalties depending upon the degree of harm inflicted by the perpetrator
  - Criminal Abuse of a VA and Criminal Neglect of a VA (assault)
  - the charged out crime directly relates to the severity of the crime
  - moving language from Crim. Abuse into Crim. Neglect
  - bodily harm, substantial bodily harm, great bodily harm, death
  - objections/suggestions:
    - Care Providers: concern over a staff member having to provide care for two people at the same time, and chooses to help one over the other person, and that other person suffers great or substantial bodily harm, would that person then be criminally charged with Criminal Neglect?
    - prosecutorial discretion still exists, even if on the books for several years as this statute has been
    - proposed change: “neglects with intent to harm”
    - the language of the statute isn’t changing, just the penalty
      - the stakes are raised here
    - looking at how the change in the penalty plays into the criminal background check studies via DHS (increasing the amount of time for which someone is disqualified from providing care)
    - how many charges have been brought using this statute against care providers, formal or informal (research here)
- Theft of More Than \$35K
  - increasing the statute of limitations to 5 years, up from 3 years
  - the more property/estate taken, the longer it takes to do so
  - consistent with existing law for theft
- Speedy Trial
  - ability to testify, health status declining preventing this
  - being able to move for a speedy trial on the state’s side that defendant’s have
- going through each of these five issues for consensus

- Financial Exploitation
  - goes into our proposal right now, overall consensus
- County Attorney Administrative Subpoenas
  - goes into our proposal right now, overall consensus
- Criminal Neglect
  - lots of support for this increase in penalties, could be revised to address the caregiver concerns
- Statute of Limitations
  - goes into our proposal right now, overall consensus
- Speedy Trial
  - goes into our proposal right now, overall consensus
  
- Public Awareness Leaders Track (PALs)
  - get the word out there loud and clear enough that we won't tolerate vulnerable adult abuse, neglect, and financial exploitation
  - there is the need to act precisely and quickly
  - not blaming good caregivers; the bad egg spoils the soufflé
  - making it a cohesive message that we won't tolerate bad behavior toward a vulnerable population in Minnesota
  - Op-ed piece that went out today, send this to the Stakeholder group so they see what the papers have
  - designing a poster to be distributed along with a pocket card that could go out to the home care associations, nursing facilities, etc.
  - email me ASAP
  
- Legislative Track Team (LTTs)
  - meet with authors, senators, and representatives
  - doing the "footwork" at the Capitol
  - communicate with all of the Stakeholders in the Justice Project
  - eventually, sending consensus items out to gain letters of support
  - taking care of additional amendments to the bill we put forward
  - monitoring other VA-related proposals coming down the pike, addressing these proposals as necessary
  - taking the responsibility to address the Justice Project members to monitor fiscal implications from any budget cuts
  - Members: Iris and Kevin, Keith Weigel (AARP), Jane Ochrymowycz (Alzheimer's Association), Toby Pearson (Care Providers), Kari Thurlow (Aging Services – potentially), Kathy Lamp (Hennepin County), Suzy Scheller (PRSL Law Firm, Elder Law Section), Deb Holtz (LTC Ombudsman's Office)
  
- Next Meetings
  - Criminal Code Subcommittee: this group will email regarding their next meeting for anyone who would like to come and help with revisions to the proposed language for Criminal Neglect (bring wording with you)

- Legislative Track Team: Friday, January 9 from 1-3pm
- Public Awareness Leaders Team: Monday, January 5 from 1:30-2:30pm
- Large Group Meeting: Friday, January 30 from 1:30-4:30pm