

**Vulnerable Adult Justice Project
Stakeholder Meeting
William Mitchell College of Law Room 123
May 14, 2010**

Present: Iris Freeman (Wm. Mitchell College of Law—CEJP); Sarah Leonard and Gary Smith (Wm. Mitchell College of Law Students); Laura Orr (University of St. Thomas Law); Jewel Anderson (Fond du Lac Reservation); Carmen Castaneda and Cindy Carlson (Hennepin County APS); Maura McNellis-Kubat (DHS-Licensing); Greg Marita (Minneapolis Legal Aid Society); Kevin Hansen (Mental Health and Developmental Disabilities Ombudsman Office); Mary Youle and Darrell Shreve (Aging Services of Minnesota); Barb Doherty (Little Brothers of Minnesota, Friends of the Elderly); Jennifer Kirchen (DHS); Steve Dopson (Ramsey County APS); Jane Ochrymowycz (Alzheimer's Association); Sarah Deer (Wm. Mitchell College of Law); Jennifer Hasbargen (Minnesota Attorney General's Office); Doug Beardsley (Care Providers of Minnesota); Amy Sweasy (Hennepin County Attorney's Office); Breanna Davis (Nokomagiis Program); Deb Tulloch (Washington County APS); Deb Siebenaler (DHS); Dave Hall (Carlton County APS); Anita Raymond (Volunteers of America Minnesota)

Welcome and Introductions
General and Legislative Updates

- Elder Justice Act Appropriations—Iris Freeman
 - Talking points from the Elder Justice Coalition will be posted on the wiki site
 - Carmen Castaneda and Deb Siebenaler participated in a conference call on the Elder Justice Act
 - There was discussion on whether money from the Elder Justice Act could be used for a common entry point.
 - The act is ambiguous as to whether it is for staff or administration, etc.
- World Elder Abuse Awareness Day—Tuesday, June 15, 2010 (Kevin Hansen and Jennifer Kirchen)
 - Will be in the auditorium of William Mitchell
 - A lot of great presenters
- June 15, 16, and 17, 2010 will be the Wisdom Steps 10th Annual Conference at Black Bear resort and casino

- Webinar—National Consumer Law Center:
http://www.consumerlaw.org/issues/seniors_initiative/webinar.shtml
- 2010 MN Legislative Session
 - Revisor’s Bill is currently in a conference committee.
 - Bill to obtain bank records was signed by the Governor.
 - Guardianship bill was signed by Governor as Chapter 254
 - Two criminal code bills did not make it this year.
 - Continuing Care policy bill is on Governor’s desk
 - Health care policy bill was signed by Governor.

Vulnerable Adults Protection in Indian Country—Jurisdictional Issues

Panel Members: Breanna Davis (Nokomagiis Program); Sarah Deer (Wm. Mitchell College of Law Associate Professor); Jackie Dion; Jewel Anderson (Fond du Lac Reservation); Dave Hall (Carlton County APS)

- What should we know about the demographics of vulnerable adults in Indian Country? Are numbers increasing? Are their shifts in where people are living?
 - Do not know if tribes are keeping demographics. There is concern and tribes would like to know the demographics.
 - 60% of cases being reported to APS are in rural Minnesota
 - Race code is Native American, so we do not know if they are on or off reservation.
 - There is a lot of work to be done to gather demographics. How big of an issue is it?
 - Still is a fairly young population, but is aging.
 - There are not a lot of services into the adult population
 - There has been an influx of people which has caused an issue with having enough housing. There is currently a lot of construction of assisted living facilities on reservations.
 - Increased amount of elders being served in the Nokomagiis Program. The numbers have tripled.
 - Red Lake reservation is closed to the county, which poses a problem
 - In Carlton County, there are many elders in their homes, so there is a lot of outreach. There are no Native facilities, which makes placement of people a problem. There is a fight to put people in facilities for Adult Protective Services.

- Native people as a whole is the most victimized. Data on victimization based on age wise is not in existence. Native people have the lowest life expectancy in the nation.
- What types of problems are seen? (Financial exploitation, abuse, etc.)
 - All of the above. There are lots of health problems and significant amount of health issues.
 - A lot of family and neighbors getting narcotics from the elders. Elderly will go without medication.
 - Fond du Lac Reservation does not fill prescriptions for the more abused prescription drugs, they go off reservation to get them.
- Are tribes apart of the census?
 - Yes
- Tribes and counties do not always work together. There is not always a relationship there.
 - DHS is looking at what needs to happen for a relationship to be formed between counties and reservations.
 - There is some uncertainty about what the follow up is when maltreatment is reported to the county by a reservation.
 - The idea is that county would be support to the reservation or even eventually a lead agency.
- Does the Vulnerable Adult law give Adult Protective Services the right to go on to tribal lands?
 - Fond du Lac reservation's attorney has expressed a desire for the people on the reservation to get the same protections under the law as the rest of Minnesota.
 - Trust is necessary to enter a reservation. Carlton County Adult Protective Services asks before entering the Fond du Lac Reservation. This is not happening in every county with every tribe.
- What should we understand about the responsibility and jurisdiction of County Adult Protective Services in the investigation of alleged maltreatment and the delivery of emergency social services?
 - Federal law classifies Tribal authority into three categories
 - Criminal Jurisdiction
 - Civil Regulatory Jurisdiction
 - Civil Adjudication Jurisdiction

- 9 Tribes share criminal and civil adjudicatory jurisdiction with the state.
- 2 Tribes share criminal and civil adjudicatory jurisdiction with the federal government but not the state.
- Civil Regulatory is more complicated—Tribes have power that the states do not have.
 - Could they relinquish this to Adult Protective Services?
 - Yes, they can collaborate with the state, often through a memorandum of understanding.
- Checkerboard situations are created where land is owned in different ways because some of the land is reservation and some of it is not, and the lines are not clear.
 - Agreements are made about how to respond to certain situations. But relationships are not always so good between county and reservation.
- Overall, protecting the people of Minnesota includes people on reservation. This is the state's duty. Tribes need to be called, but the county needs to know whom in the Tribe to call.
- Would there be a situation in which the Tribe maintains jurisdiction to a member off the land?
 - No, jurisdiction is very much tied to the land.
- What is the recommendation for when the Tribe does not let social services on to the reservation?
 - It is a matter of building relationships and deciding who is best at serving the people of the reservation. Forcing way onto reservation is not the way to go about. Regulatory jurisdiction is just not clear.
 - Law enforcement has a clearer jurisdiction in criminal matters; where as social service's jurisdiction is less clear.
- Is there any similarity to child protection? Something to be learned?
 - Child protection is more developed.
 - The two tribes that do not work with the state have formed their own child protection services.
 - Codes for adult protective services and identifying the vulnerable adult need to be developed in their own court system.
 - Tribal people have a long history of protecting and cherishing their elders. Elders have been leaders of Tribes.

- There is not the same development in codes for elderly and vulnerable adults as in child abuse, and domestic violence. Tribes do not have to follow state codes—they could be better.
- Tribes set their own standards for licensing professionals. Often times the standards are the same as or better than the state standards.
- Is there any vulnerable adult law out there in tribal law that would be a good example?
 - Professor Deer has examples in other states, as well as a link to a code guidebook that would be helpful.
 - <http://tlj.umn.edu/resources/index.php>
- Reservation boundaries—are they often in more than one county?
 - There are two counties within the Fond du Lac reservation and the difference between them is night and day.
 - Jewel Anderson has had experiences with the other county, in which that county did not respond to reports made by the reservation. She has attempted, and continues to attempt to build relationship with the county.
 - A relationship is not always between two people, sometimes it is other issues between the county and the reservation that funnels down to individuals. Cannot tell the Tribes to work with the county—cannot be put into law.
 - Tribe has almost become a common entry point; those numbers do not always get entered in to SSIS.
 - Can see value in every Tribe having its own common entry point.
 - Fond du Lac has a very multi-disciplinary set up with Carlton County built out of mutual respect.
- Counties could use education and information about the Tribes and how to approach the Tribes.
 - Carlton County has been the only county to invite the reservation to the table.
 - Counties would be more effective if they were invite the Tribes in, even if that invitation is not accepted.
- Positive impact that casinos have on reservation

- There was no tax base coming from reservation—casinos have provided enough of a tax base to be able to build roads, schools, and houses.
- Mentality that Tribes are getting enough money from the casinos to take care of their people that they do not need state revenue. This is not true.
- Nokomagiis Program
 - A program through the Coalition for Family Safety (domestic violence program)
 - The program focuses on enhancing services to provide for elders and children in need.
 - It is a new project to help the Adult Protective Service team, both within reservation and county.
 - It works to get issues out into the community that are often ignored or overlooked.
 - Non-profit and independent.
- Other models for cooperation
 - White Earth and Becker county have a relationship around long-term care.
 - Little Earth is a low income housing program, only one in the nation that gives preference to Native people. Hennepin County has a relationship with Little Earth.
 - Program to bring social services to the community.
 - Very at-risk population and bring the services to the community helps keep people from falling through the cracks.
- Elders often do not have an advocacy group
 - American Indian elders if asked will say they are okay. More concerned about children and jobs for working adults—less concerned about their own needs.
 - Generational issue—trying not to be a bother.
- Anything that you feel the VAJP or the Center for Elder Justice and Policy can do to help with building relationships or other things you would like us to think about?
 - Tribes are starting to get considered in the bigger picture. They need to be included when considering grants.
 - Common entry point—people may not call the county, but they may call the tribe. It maybe a way to form a collaboration.

- Data collection and protection
- Training to make people aware of jurisdiction issues. There are a lot of myths and misunderstandings about Tribal jurisdiction, and elder abuse and exploitation.

Committee Reports

Jurisdictional Issues: Kevin Hansen

- Looking at lead agency delineation of who goes to what facility.
- Hope to bring proposed language to next meeting.
- Looking at leading a term to “lead agency”
 - PEPSI uses the term lead agency as well, but with a different definition.
 - Adding “investigative” to “lead agency” making it “lead investigative agency”
- Discussion of what to do about Native jurisdictions.
- Looking at how everybody is communicating with each other in financial exploitation cases.
- Making facilities mandatory reporters, which are currently not statutorily mandatory reporters.

Protections Subcommittee: Barb Doherty

- Jason Flint discussed family members and background checks.
 - Language that CMS is trying to incorporate that would require those programs and facilities that receive waivers to make background checks mandatory.
 - St. Peter Facility—when will the nursing home open and what will it take?
 - There are some very challenging placements.
 - There is a need for another forensic nursing home.
 - Could St. Peter’s take some of those that are hard to place?
 - They have 16 people waiting to get in, but it is not open yet because it has not passed inspection. Fight over who needs to fix the problems to get the facility to pass inspection.
 - They are only going to be taking committed people (mostly mentally ill) and not community people.
 - It is going to be going to a secure facility to a locked facility.
 - Will inspect again in a couple of weeks, there is no known opening date.

- Administrative Law Judges—need for there to be more continuity.
- Emotional Abuse
 - Needs to be a definite definition.
- Review Panel Issues
 - Kevin Hansen will be attempting to formulate a consensus from subcommittee discussions.
 - Draft may be provided to June subcommittee meeting.
 - Jennifer Kirchen will also be providing
- Monday, June 7th, from 1 to 3 in room 227.

Criminal Code Subcommittee: Amy Sweasy

- Phil Carruthers won a distinguished award from the Ramsey County Bar Association.
- June Criminal Code Subcommittee TBA

Center for Elder Justice and Policy

- Financial Exploitation Protocol Project draft has been sent to pertinent stakeholders. It is on track.
- There will be other proposals around financial exploitation.
 - Lots of issues around Power of Attorney. Issues that have come up during focus groups.
- 2010-2011 look at admission agreements

Timeline

March-June 2010

- Subcommittee work (Protections, Jurisdictional Issues, Criminal Code)
- Monthly Subcommittee reports to VAJP
- Protocol research team records policy and systems issues that arise in the course of developing the financial exploitation protocol.

June 11, 2010

- Legislative recommendations on several issues from Protections and Jurisdictional Issues
- Jerry Kerber will give an update on new federal criminal background check requirements.

July 9 and August 13 VAJP meetings

- Adopt noncontroversial and carry-over items that are ready for the platform

- Identify issues that need additional discussion, research or outreach to other stakeholders to forge agreements. Additional meetings may be required in September and October to fulfill that purpose.

September 10 and October 8 VAJP meetings

- Determine and draft 2011 legislative initiative(s)

November 12 VAJP meeting

- Discuss election results and implications for our work
- Following that meeting:
 - Meet with key legislators, although committee assignments will not have been made.
 - Get authorization to send our bill(s) to counsel and revisor

December 10 VAJP meeting

- Problem-solving and building support
- Organize 2011 VAJP legislative track team
- Following that meeting:
 - Begin drafting talking points and fact sheets for 2011 session (opens Jan. 2011)

Wrap Up

Proposition that we meet from 2:00p.m. to 4:00p.m. during the summer. You do not need to sign in at the front desk to park in the summer.

We will still be meeting the second Friday of each month.