Martha Neary, Interviewer, Windsor County Special Investigation Unit

These remarks are intended to supplement those of Julie Gaudette, the Director of the Windsor County SIU. I share the views she has expressed in her remarks, and offer these observations and suggestions in addition to hers, and from my perspective after 15 years of experience and work with DCF, DOC, the defense bar, Courts, States Attorneys, numerous law enforcement agencies and officers, victim advocates, mental health clinicians, SANE nurses, child abuse specialists, Court clerks and Court officers, clients, child victims, GALs, forensic interview specialists, CAC coordinators, expert witnesses, and parent-child centers—most particularly The Family Place, that is our umbrella organization.

I. Legislatively, the State should require SIUs to be involved in every allegation of serious physical abuse, --not just sexual abuse, --and serious physical injuries, which also would include child fatalities. SIUs in each county should be funded sufficiently to include the active involvement of all Multi-disciplinary team (MDT) members: prosecution, trained and dedicated LEOs (law enforcement officers), trained and dedicated DCF investigators who focus on serious cases of abuse [and who are supported in this work by financial or other incentives to stay in their jobs]; forensic interviewers--preferably independent of DCF and LE; CAC and/or SIU coordinators; mental health clinicians; victim advocates, DOC personnel, and medical personnel. Ideally, SIUs in each county would be mandated to respond to, investigate, collaborate, provide services, to include counseling and other referrals, advocate support, and follow through with prosecution and sentencing if applicable, for all reports involving serious injury/abuse and sexual abuse to a child.

In order to achieve this goal, Vermont must invest in:

1. the consistent systems and support of all these 8 disciplines, and those who fill these positions within the SIUs. From the head of VSP, down the chain of command--and from the head of AHS, down through each District Director and supervisor; from the heads of our community mental health centers, to each State's Attorneys office-- these people must understand and *value* this specialized work, and must support the people that are doing this work. These positions should be valued within VSP (like BCI)--and sought-after within DCF as a means to incentivize investigators to stay in their positions, to value their work and to feel validated in their positions. This is HARD work, with very little reward, but we owe it to these investigators and other front-line workers to provide them with better training, better support within their agency--including i) personal time, ii) administrative support; iii) better IT, --and better support within their MDT, including: iv) a uniform database/system for DCF/DOC and ALL LE so that everyone in the child protection field has access to the same collected data and information about the people we serve, and so that time is not wasted on repeatedly entering data into several different databases. At this point, even within our own county, LE officers from different police agencies do not have access to each other's data, nor do any of them have access to the AHS database. At the very least, DCF needs to update their system so that information can be more efficiently entered and accessed, even just by DCF employees. Additionally, internal agencies should engage in
v.) Mandated peer review, peer support, and appropriate supervision and mentoring by others in the field with experience. This would also go a long way to assist with low cost, on-the-job training and support, and to share information as well.

Much of this can all be done at little to no monetary cost. It cannot be said too many times that the individuals tasked with this most important work are undertrained, often inexperienced, underpaid, and overburdened—with stress, with paperwork, with the feeling that they are never doing enough.

2. ALL DCF workers and ALL LEOs must be provided consistent training across the State, which teaches best practices for handling the multiple layers of issues in these investigations. The training must address the current state of problems within Vermont and must provide research/ evidence-based information—to dispel long-held myths [about who are child molesters, delayed disclosures, accommodation syndrome, conflicted feelings, etc.] so that **everyone** including those who 1st respond to a report, has a good understanding of issues such as: what are signs of possible physical or sexual abuse; understanding the specialized medically trained resources available in the specialty of child abuse; crime scene investigation; forensic interviewing of children; effects of trauma on witnesses; digital and electronic evidence collection; SANE exams and SANE evidence kits; perpetrator interviewing; collaboration and communication amongst team members, as well as current and relevant statutory and evidentiary rules, among others. Ideally, this training would be presented by people who are familiar with these specific topics and who work within SIUs, and we have such experts here in Vermont.

3. Similar training on issues such as the importance of early bonding, brain development and the effects of trauma on children should be provided to all GALs, attorneys and Judges who work within our judicial system.

Mandating a consistent SIU response within each county and within each AHS district (which ideally would correspond with one another) would ensure that core Multi-disciplinary team members are consulted and participate in ALL cases of sexual abuse and serious physical abuse/child fatalities, so that no piece of the puzzle is overlooked.

II. If Vermont is truly concerned with the protection of children--and the State is sincere about taking steps to maximize keeping kids safe, then that must also include protection for children who come within the parameters of the **judicial system.** That includes taking steps such as:

1. creating an **evidentiary presumption**, so that when a non-verbal child is injured, by non-accidental means, *and* there is an identified perpetrator, or 2 possible perpetrators—[e.g. the only person(s) who was/were with the child, or who are primary caretakers,] - the Court would accept medical testimony regarding the manner and mechanism of injury to establish that the injury was non-accidental; law enforcement and/or DCF investigators could present evidence regarding the adult(s) responsible for the care of the child, and then the presumption should be that the adult or adults is/are responsible for the injury. This would be a rebuttable presumption, permitting the parent(s) and/or caregiver(s) the opportunity to provide evidence to the contrary. This presumption should be added to VRE and should apply in criminal and CHINS cases.

2. **VRE 804a:** should also apply in physical abuse/domestic violence cases--or at least for serious physical injury/abuse, and, more urgently, it should apply in Human Service Board hearings. Countless times cases are dropped or substantiations

overturned due to the child being too traumatized to testify at a deposition, hearing, and/or trial, and we owe these child victims more protections within the judicial system.

Another possible solution would be to rework the rule, or add a provision as 804b, that allows for the moving party to establish that the statements were taken in compliance with certain [SIU] protocols, such as: the child was interviewed in a neutral (non police-dominated atmosphere) setting; that the interview was done by a trained forensic interviewer; that the interview generally followed acceptable practices; that the interview was video and audio-recorded and a copy provided to defendant; that the interview occurred prior to the defendant's appearance, or arraignment for the particular charge(s), (and the other provisions of 804a apply, with the additions of applicability to HSB and physical abuse cases) then the presumption is that the statements may be admitted at trial. The defense could challenge this, pre-trial, by presenting evidence to the contrary. This rule would streamline 804a hearings, and would allow children's recorded interviews, which are currently given under circumstances that provide a sufficient indicia of trustworthiness, to more often and/or more easily be used as evidence at trial, without forcing the child to have to testify to all the facts and circumstances of the abuse months, or years later, as is often the case now. This change would save time and money within the court system as well, since 804a Hearings often necessitate the use of expensive experts on both sides, as well as the expenditure of court resources, and with results that generally allow the statements to come in (this has been my experience, but others should weigh in if this is not the case in other counties)

3. **Rule 807**, which provides accommodations for children testifying, should also be expanded to permit accommodations to be made for children--ALL children under the age of 16, where a finding is made that testifying on the witness stand would be *likely to cause trauma to the child*. This should apply in cases of Lewd & Lascivious Conduct (13 VSA 2601) where the child witnesses the event, as well as physical abuse/Domestic Assault cases and HSB hearings as well. Again, this would expand the current parameters of when such accommodations might be made, but there is sufficient evidence and support for this necessity. (Judge Corsones' recent decision in <u>State v. Michael Thomas</u>; Docket #1029-9-13 BnCr, from Bennington County)

4. **33 VSA 5114(a)** should be expanded to read that the "best interests of the child" should be considered during ALL hearings that take place within the realm of CHINs proceedings--not just well into the case when permanency decisions or modifications or TPRs (termination of parental rights) are being considered by the Court--and GALs and attorneys representing children in these cases need to understand the best-interests-of the-child standard, and need to zealously represent this to the Court.

5. **checklists** for Judges and attorneys to make sure all relevant information about the child/case is addressed; this should include notations about what issues brought the child into Court or into DCF custody; what documents or information have been provided or need to be provided; next steps; updates on progress by the parties, and the like.

6. DCF should update and rework their **Case Plan and Disposition Plan templates** to better reflect the issues and concerns that brought the child within the

court system, what exactly parent(s) and/or child has done to address these issues, what DCF recommends for further work, and DCF caseworkers should be held to a higher standard to provide more detailed and updated information within these documents.

7. **Bail statutes** should be looked at (again). The re-traumatization to child victims that occurs when they are brave enough to disclose sexual, or physical abuse—often at the hands of a known and perhaps loved one—and then learn that the alleged perpetrator is still "out there" and not in jail is destructive and unfair, and again, often leads to the child being too afraid or too traumatized to participate in the court process.

III. Other suggestions:

AHS oversees DOC and DCF, yet these 2 departments do not share all the same information about their clients. This is a simple fix, and it should be mandatory that the sharing of this client information goes both ways, at every step of a case.

Within each DCF office, investigators and caseworkers do not share case or client information on a regular and consistent basis, so one hand does not know what the other is doing...often with tragic consequences. Regular transition meetings **must** be mandatory, so that when case is transferred from the investigator to the on-going worker, both workers and their supervisors are aware of all relevant facts and circumstances from the investigation. Staff meetings should also include a review and collaboration/discussion of all cases involving (serious) abuse.

Many AHS districts span more than 1 county, and also deal with cross-jurisdictional issues with NH, NY and MA. This is another factor that further complicates the work, with added travel; communication difficulties, due to confidentiality; inconsistency between and amongst states, which causes families to go back and forth between states; and other challenges with the clients we try to serve, and with the judicial systems--even with UCCJA (much of which many in the legal and child protection community are unfamiliar with)--we work with.

Bonding assessments within the 1st 6-12 months need to be done, and need to be considered when assessing abuse and neglect cases. There is a plethora od research into the importance of healthy bonding between a baby and a loving caregiver, and when mandated reporters call in reports about lack of attachment, or lack of bonding between and parent and a baby, these need to be assessed.

DCF investigators should be following up with reporters when an Intake is assigned to them for investigation. CIU is not always able to gather all accurate and pertinent information, and the Intakes can be confusing, or may miss important details or subtleties that a follow-up conversation can address. This should be the 1st step in the investigation.

Thank you for allowing me the opportunity to address this committee.
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