

Questions for the Record from Senator Charles E. Grassley

Senate Committee on the Judiciary

Protecting Our Children – The Importance of Training Child Protection Professionals

May 23, 2012

For Stephanie Smith:

1. I'm interested in your thoughts about teacher reporting laws. In your opinion, how effective are teacher reporting laws? What additional training may be necessary to provide to teachers to ensure that they report suspected child abuse to the proper authorities?

Research studies, anecdotal reports and personal experience lead me to believe that the real issue is not effectiveness or lack of effectiveness of the law. Nor is the issue confined solely to teachers. Much attention is directed toward teachers as mandatory reporters because they, more than any other profession, have the most regular and direct contact with children. However, lack of reporting by those in mandated professions is well below total compliance regardless of the vocation. At the same time, the majority of reports come from those in mandated reporter fields so if we truly hope to get the maximum number of reports investigated, engagement of all mandated reporters is crucial.

Any law is only effective as its enforcement and realistically few prosecutors file a criminal charge for a failure to report abuse. This lack of prosecution is due in large part to the fact that prosecutors exercise their charging discretion to focus their caseload where they can make the greatest impact; the prosecution of an alleged offender who is likely to repeatedly abuse children rather than a teacher or other professional who has failed to report. The penalties for failure to report are relatively minor while these prosecutions will take considerable time and resources to handle and punish a person who may have failed to report due to fear for his/her job or to comply with internal policies* or simply due to a lack of clear understanding of how and what to report or a belief that “nothing” will be done.

All mandated reporters should receive training on more than the letter of the law which appears to be the clear standard currently employed in such training. They must understand how children disclose; the disclosure may be tentative or only partial. Children often try to “test the waters” before making a report especially when they have been groomed to expect that no one will believe or support them. They may disclose long after the event has occurred. Most significantly, they will be alleging abuse by someone close to them, perhaps close to the mandated reporter as well, and this alone will create conflict in the mind of the reporter. Without an understanding of the dynamics of child maltreatment and reporting and what information must be reported, many mandated reporters become paralyzed by the idea of taking the next step. Reporters must be taught what information is required and how to obtain sufficient information without conducting their own “investigation”. They need to know that “reasonable cause” or “reasonable belief” is a far lower standard than being convinced beyond a reasonable doubt or even believing by a “preponderance of the evidence” in the veracity of the report.

One possible framework for training mandated reporters would be to coordinate at a statewide level so that every mandated reporter receives the same training. Currently training is left to individual agencies/entities and there is little consistency in who and how this training is provided. Thus clergy may receive one set of training instructions while teachers or daycare providers are trained by others. Even across counties, training is varied within individual states. A central information provider for the state could accurately create a set of materials consistent with state statutes and updated based on statutory revisions as well as providing quarterly updates with input from law enforcement or prosecutors based on emerging issues. The designation of trainers within each county to annually present first time and refresher trainings for all county mandated reporters would ensure the opportunity for every mandated reporter to become familiar with their obligations.

The key to successful implementation is to have a means of ensuring that each mandated reporter attends the full training session. Currently many of those who offer mandatory reporter trainings offer some kind of training or notify employees of training opportunities but have no requirement of attendance.

2. It appears that there's a great deal of cooperation at the local level, including multi-disciplinary teams and Child Advocacy Centers. At the federal level, both the Department of Justice and the Department of Health and Human Services are vital to helping train professionals in the field. Is there anything done at the federal level that impedes cooperation at the local level? Do you have suggestions on what the federal government can do better to encourage more state and local cooperation?

Greater engagement and communication among state, local and federal personnel would allow for greater opportunities to maximize resources both in personnel and programming. The needs of local communities are as unique as each community itself and there is no "one size fits all" solution for child maltreatment issues. In some areas, ethnic/cultural influences may create the greatest challenge for ensuring child protection while meth labs may be the biggest danger in another. Encouraging regional and statewide collaboration, even across state boundaries, could present a new model for addressing these issues. For example, the creation of the Internet Crimes Against Children Task Forces has engaged federal personnel in both law enforcement and prosecution to work with local law enforcement and prosecution within many counties within individual states. Cases can be prosecuted based on the most likely best outcome or needs/location of the victim rather than a strict jurisdictional basis.

A model of programs incorporating multiple disciplines, such as medical, mental health and child protection/advocacy should incorporate participation by all professionals in the relevant geographic location regardless of federal, state or local employment. As noted by Senator Grassley, Health and Human Services has a significant role to play in training professionals. Policies which impact children and families involved in maltreatment or at high risk for maltreatment should be considered in concert with the legal process just as

legal policies developed by the Department of Justice related to maltreatment/exploitation/trafficking of children must consider the medical and mental health impacts on the child and his/her family.

Both the federal and state resources involved in the child protection field have substantial knowledge and human resources to bring to bear on resolving the problem of child maltreatment. Stronger joint planning and programming can maximize these resources to the benefit of America's children