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— JUNE 2 – 5, 2014 —
MACKINAC ISLAND, MICHIGAN

silent tears

PRESENTS TO

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The Silent Tears Initiative: Giving a Voice to Child Sexual Abuse is a private-public partnership that identifies prospective, quantifiable areas of change in states' judicial, legislative, law enforcement, business, education, health care and faith-based communities. The goal of this extensive effort is to construct a model that can be replicable throughout the country, modifiable to meet unique state needs and budgetary concerns and based on private-public partnerships.

SILENTTEARSSC.ORG

AGENDA

I. METHODOLOGY

II. QUANTIFIABLE SUCCESSES

III. FIRST STEPS

IV. EXECUTIVE SUMMARY

I. METHODOLOGY

Silent Tears facilitates private and public partnerships in a unique, replicable and quantifiable manner. By utilizing the information from those on the front lines of child protection, Silent Tears is able to gather a clearer picture of what the strengths, needs and opportunities are for the state. There are six (6) critical components to how Silent Tears works.

1. Identify the existing child protection infrastructure working directly with the State Chapter of Child Advocacy Centers and child protection leaders:
 - a. Review of current statewide data and statistics regarding child sexual abuse
 - b. Identification of key stakeholders (child protection professionals, business leaders, elected officials) across the state
 - c. Coordination of statewide meetings with key stakeholders to gather information about the current system of care and to explain the purpose of Silent Tears
2. Survey all Child Advocacy Centers and key stakeholders in the state to select counties that represent the state as a whole
 - a. Based on demographic information and the feedback from those surveyed, a specific group of counties across the state will be identified as those that will most reflect the diversity of the state as a whole
3. Conduct interviews with child protection professionals and leaders in the identified counties
 - a. Interviews are conducted with child protection professionals (social workers, law enforcement, prosecutors, counselors, educators) in each of the identified representative counties
4. Develop an online survey based on information gathered from the interviews and solicit feedback from all child abuse professionals across the state
 - a. Based on the emerging themes from the child protection professional interviewers, a statewide survey is developed and distributed to all child protection professionals across the state
5. Analyze data collected from interviews and surveys to compile a full report and recommendations
 - a. Data is analyzed from the surveys and interviews
 - b. This data is compared to the initial review of available statewide statistical data as well as national statistical data
 - c. The report is completed with identified state strengths, needs and recommendations for change
6. Establish a statewide task force comprised of leaders from each of the key child protection disciplines (Law Enforcement, Department of Social Services, Child Advocacy Centers, Prosecution, Education)
 - a. The task force will commit to developing individual work plans to address each of the recommendations made for the state
 - b. Work plans will have measurable outcomes that can be reviewed and reported annually

II. QUANTIFIABLE RESULTS

On May 28, 2013 Victor Vieth, Executive Director of the National Child Protection Training Center (NCPTC) released the findings of the privately-funded Silent Tears initiative to the state of South Carolina. A “road map” of recommendations was prescribed from a series of comprehensive interviews and surveys with over 600 child protection professionals that produced a 339-page report of the status of CSA in South Carolina and recommendations to strengthen how the state addresses the issue. Less than a year later, the state reports significant and quantifiable success in the core competencies noted below.

1. Judicial

- a. Trauma Informed Court Room training for judges and other court personnel

2. Legislative

- a. Pending legislation for:
 - i. Improvement in the mandated reporter statute
 - ii. Re-alignment of admissibility of out-of-court statements made by children to employees or agents of a Children’s Advocacy Center
 - iii. Implementation of South Carolina Children’s Advocacy Center Medical Response System

3. Law Enforcement

- a. Statewide pilot program to address investigating child abuse reports
- b. Experiential Child Protection Training Facilities for child abuse professionals on select State University campuses

4. Business

- a. Identification of infrastructure for business community to implement Silent Tears recommendations

5. Education

- a. Addition of a Graduate Certificate in Child Advocacy Studies
- b. Review of existing University curriculum
- c. Online training for Child Protection Professionals

6. Health Care

- a. State Medical University partnerships
- b. First year residents to recognize, report and respond to child abuse in the healthcare setting protocol

7. Faith Communities

- a. Gundersen National Child Protection Training Center to pilot the Chaplains for Children program

III. FIRST STEPS

Four main components are needed to successfully implement Silent Tears:

1. Full commitment (“buy-in”) of child protection leaders across the state who will participate in the assessment and implementation process is critical.
 - a. Child protection leaders must be willing to:
 - i. Participate in an honest assessment of their agency’s role in child protection
 - ii. Allow their employees to participate in honest assessment of their role in child protection
 - iii. Commit to partnering with other child protection leaders as a statewide team to address the issues and implement the plan
2. Coordinating organization that is dedicated to managing and coordinating the statewide effort with the Silent Tears team
 - a. Currently 49 states have State Chapters of Child Advocacy Centers. We recommend the State Chapter or an accredited Child Advocacy Center take the lead in coordinating the internal statewide effort
 - b. The coordinating organization will work directly with Silent Tears to:
 - i. Identify key stakeholders and coordinate meeting with them
 - ii. Coordinate interviews within the identified representative counties
 - iii. Coordinate the distribution of the online survey across the state
 - iv. Promote the value of participation in the project and secure support from child protection professionals across the state
3. Secure an independent team to conduct the objective statewide assessment with recommendations
 - a. Silent Tears and the Gundersen National Child Protection Training Center are available as a resource to conduct the assessment in an individual state or region
4. Initial funding to begin the process:
 - a. The success of Silent Tears is due largely to the financial investment made by a statewide business leader. This initial investment demonstrated committed partnership between the private sector business community and the public sector child protection professionals.
 - b. Silent Tears can be customized to fit the budget and needs of each state

IV. EXECUTIVE SUMMARY

The View from the Trenches: Recommendations for Improving South Carolina's Response to Child Sexual Abuse Based on Insights from Frontline Child Protection Professionals

Two years ago, community leaders and child protection professionals from South Carolina approached the National Child Protection Training Center (NCPTC) about conducting a large-scale study of the response of South Carolina systems to cases of child sexual abuse (CSA).

Working with children's advocacy centers (CAC) and other stakeholders, NCPTC selected seven counties we believed were representative of the state as a whole. With the assistance of the CACs, we identified and interviewed 166 child protection professionals including solicitors, law enforcement officers, Department of Social Services (DSS) employees, medical and mental health professionals, juvenile sex offender treatment providers, forensic interviewers, and victim advocates. The professionals were interviewed using a survey instrument consisting of 90 questions divided into 21 categories.

The Metropolitan Studies Institute (MSI) at the University of South Carolina Upstate reviewed the notes of all the interviews and compiled an online survey to assist in determining if the recurrent themes in the onsite interviews were representative of professionals throughout the state. A total of 404 child protection professionals completed the online survey.

In our interviews with front line professionals, there were a number of themes we heard repeatedly and, for the most part, these themes were echoed in the online survey. In this executive summary, and our full report, we attempt to capture the sentiments of these professionals and to offer possible solutions to the issues they raised.

IMPROVING TRAINING AT THE UNDERGRADUATE AND GRADUATE LEVEL

In both the onsite interviews and the online survey, most child protection professionals reported having little undergraduate or graduate training on child abuse. This finding is not unique to South Carolina. Indeed, the United States Department of Justice has issued a report recommending undergraduate and graduate reforms in educating future child protection professionals. Other organizations have also urged the country to move in this direction. To this end, we make the following recommendations:

1. All universities and colleges in South Carolina should scrutinize existing curricula on child maltreatment and, if need be, implement undergraduate and graduate reforms

In the summer of 2012, NCPTC examined websites and course catalogues of South Carolina institutions of higher education and found little evidence that rigorous instruction on child maltreatment is being provided at the undergraduate level. However, USC Upstate has implemented a 21 credit interdisciplinary minor entitled Child Advocacy Studies (CAST) that provides intensive hands on learning for future child protection professionals. Although other universities may wish to exceed the curriculum implemented by USC Upstate, we do not believe institutions should go below this standard.

2. Seminaries, law schools and medical schools should develop or expand child protection curricula Seminaries. We recommend that seminaries implement at least 10 hours of training on child abuse. In our extended report, we detail the suggested content of this coursework.

Law schools. South Carolina's law schools are doing some promising work in preparing students for child protection careers. In our report, though, we suggest possible areas for expansion of law school training in the years ahead.

Medical schools. In response to the literature documenting the need to improve medical school training on child maltreatment, the University of Toledo College of Medicine and Life Sciences has implemented a nine-month elective on child maltreatment. Two published studies on this course show not only an increase in the students' ability to recognize and respond to cases of child abuse but also a change in their willingness to report abuse and to make other appropriate referrals. Although

medical schools may wish to do more than what has been implemented in Toledo, they should not do less.

3. Child protection employers should actively recruit candidates with adequate undergraduate and graduate training

As undergraduate and graduate institutions continue to reform training on child maltreatment, child protection employers should actively seek these better trained graduates and otherwise reward institutions of higher education for meeting the need of a highly skilled child protection workforce.

IMPROVING TRAINING IN THE FIELD

Although South Carolina has many excellent training programs, not every professional has been able to access quality training on child maltreatment. Many professionals shared with us various barriers to accessing training and offered suggestions for expanded course offerings. Consistent with what we heard from these front line professionals, we have several recommendations.

1. Minimal initial and ongoing training standards

We suggest a base of at least 40 hours of training on child maltreatment for every member of the MDT and at least 10 hours of ongoing training every year a professional works in the field of child protection. With the proliferation of high quality online programs, this standard can be met with little or no expense to the MDT.

2. Emphasis on experiential learning

Many of the child protection professionals we interviewed expressed a strong desire for hands-on training courses such as mock trials, mock crime scene investigations, or mock forensic interviews. One law enforcement officer told us, “I don’t need any more PowerPoint presentations—I don’t remember what’s on the slides. I need trench training.” We agree with this officer and encourage all training providers to emphasize experiential learning. We also suggest that South Carolina child protection professionals have access to at least 15 “hands on” child abuse courses of 2.5 days or longer.

3. A training facility

“Trench training” is best conducted in mock houses, courtrooms, mock medical examination rooms, and mock forensic interview rooms. To this end, child protection professionals may want to combine resources and work with public and private funders to develop a state child protection training facility ideal for experiential learning.

4. A training portal

There are basic child abuse workshops that every member of the MDT should take. The content of these workshops changes very little over an extended period of time. For example, every solicitor needs to know how to cross examine a suspect, deliver an effective closing argument, and prepare a child for court. Rather than offer these workshops at state or regional conferences, South Carolina should have a training portal that can be accessed 24/7 by child protection professionals. Within that portal, there should be sub-portals appropriate for each discipline represented on the MDT—law enforcement, DSS, solicitors, etc. This would be a low cost, efficient manner for ensuring that all child protection professionals have immediate and permanent access to basic training.

5. Addressing the unique needs of rural child protection professionals

By necessity, rural practitioners may not be able to specialize in child abuse. Distance may make it more difficult to access a CAC or even attend an MDT meeting. Accordingly, resource guides and training programs should consistently take into account the unique factors present in these communities and tailor their recommendations accordingly.

6. The next steps

To carry out these recommendations, the Silent Tears Task Force should develop a working committee of representatives

from the CACs, solicitors' offices, DSS, medical and mental health professionals, as well as statewide training organizations to develop a plan to make sure training is in place that will allow all professionals in the state to meet these standards. The committee should also provide one or more options for providing experiential learning in a "laboratory" training facility such as is contemplated in this report.

IMPROVING THE COLLECTION OF EVIDENCE

A recurrent theme in the onsite interviews and the online survey is the rarity of collecting corroborating evidence in CSA cases. Many MDT members also said the taking of crime scene photographs in CSA cases is rare. However, the fact we also spoke with professionals who routinely take photos and collect multiple pieces of corroborating evidence shows that, with training, this can be done. The more corroborating evidence a team gathers, the greater the chance to obtain a confession and to resolve a case quickly. Toward this end, we have several recommendations.

1. MDTs should set a goal of taking crime scene photographs in every case of CSA

The sexual abuse of children always occurs in a physical location and, even when the crime took place years ago the location is often still present or, if it is not, family photo albums or other documentation of the crime scene may still be available. One solicitor told us he has crime scene photographs in 80% of his CSA cases and they are extremely helpful at trial. Accordingly, we recommend that, within a year, the taking of CSA crime scene photographs should be the norm.

2. MDTs should set a goal of at least five items of corroborating evidence in every case of CSA

Many experts contend there is corroborating evidence in every case of child sexual abuse and that collecting multiple pieces of evidence should be routine. Indeed, we encountered MDT members in South Carolina who told us they were always able to collect some corroborating evidence and, in many cases, multiple piece of evidence. Accordingly, MDTs should set as a goal the collection of at least five items of corroborating evidence in every CSA case. Achieving this goal may take some training but a number of law enforcement officers in the state are already proving it can be done.

3. MDTs/CACs should set a goal of having the ability to conduct a forensic interview within two hours of a report to the authorities

Many MDT members told us that it may take a week or two before a forensic interview can be conducted. This delay increases the chance a child may be pressured to recant and that corroborating evidence will be lost. It can also impact the ability of the team to get incriminating statements from the suspect. This is primarily an issue of resources and likely cannot be solved easily or quickly. However, we urge MDTs to establish as a goal the ability to do a forensic interview within two hours and to achieve this goal within five years.

4. Solicitors should increase their role in MDT meetings

From the onsite interviews and online survey, it became apparent that solicitors are often not present at MDT case review meetings. Although some CACs have worked with solicitors to set up separate meetings at the prosecutor's office, we believe the presence of at least one solicitor at all MDT case review or other critical MDT meetings will increase the chance that corroborating evidence is collected. Simply stated, the prosecutor understands better than any other team member what evidence may help him or her make the case in court. Accordingly, a solicitor present at these meetings can help medical and mental health professionals, law enforcement officers, forensic interviewers and other MDT members function in such a way as to maximize the amount of evidence collected.

FROM CRIME SCENE TO TRIAL: RESOLVING CASES MORE QUICKLY

Another recurring theme in both the onsite interviews and online surveys is the frustration many South Carolina child protection professionals have with the time it takes to resolve a child sexual abuse case. Many professionals told us it often takes more than two years for a case to come to trial with some professionals reporting instances in which a case was delayed for three or more years. One law enforcement officer described these delays as "the biggest problem South Carolina faces" and causes "children and families to be beaten down" which, in turn, results in more lenient plea agreements and longer

periods of time in which sex offenders are free to offend again.

To address this issue, we suggest the governor of South Carolina appoint a bi-partisan commission of legislators, court administrators, appellate and trial judges, solicitors specializing in child abuse cases, defense attorneys, medical and mental health professionals and, most importantly, child abuse survivors or their families impacted by lengthy court delays. The commission should be charged to develop concrete recommendations to resolve CSA cases within six months of an arrest or filing of charges.

IMPROVING THE ALTERNATIVE OR APPROPRIATE RESPONSE SYSTEM (ARS)

The South Carolina Department of Social Services is unfolding an alternative or “appropriate response system” to provide services to families who are reported as possible cases of abuse but are screened out as low risk. Cases screened out are referred to professionals employed with a contracted program entitled Specialized Alternatives for Families and Youth (SAFY).

There is strong support for the program among the DSS workers we spoke with, and many other MDT members find the program to have some benefits. However, a number of MDT members expressed concern that some cases are inappropriately screened into ARS or are inappropriately retained in the ARS system.

We believe ARS is helping a number of families in South Carolina. However, research suggests there is a risk of improper screening or assessment of child abuse if multiple professionals from different agencies are not engaged in the process. To this end, we have two recommendations for improving the ARS system and building greater MDT confidence in the system.

1. Public policy makers must engage in the debate

ARS represents a fundamental shift in state and national child protection policy. This shift has produced strong debate among child protection professionals throughout the nation. In our report, we summarize the conflicting, often strong views on this subject and urge all leaders to acquaint themselves with the myriad issues involved in the debate.

2. The ARS screening instrument should be reviewed by multi-disciplinary team members and ARS cases should be subjected to MDT case review

We believe the concerns of many MDT members about ARS screening can be addressed through education and by greater involvement of the MDT in ARS cases. Although it may be impractical to have the MDT involved in every ARS case, having a randomly selected number of these cases presented for MDT case review will increase confidence in ARS, will serve as an extra precaution on the screening of these cases, and may add resources to families served in the ARS system. We urge MDT members to explore these possibilities.

DEVELOPING PARTNERSHIPS BETWEEN FAITH AND CHILD PROTECTION COMMUNITIES

In both our onsite interviews and the online survey, child protection professionals noted the importance of faith to many families in South Carolina and the critical role faith leaders can play in protecting children. Unfortunately, these professionals also noted that many sex offenders use religion to their advantage by abusing children in the name of God and convincing the child he or she is the sinful party. When this happens, abused children suffer significant spiritual damage which, in turn, impairs their ability to cope physically and emotionally. Unfortunately, many faith communities are unaware of these dynamics and often lend their support to the offender while further damaging the child victim.

To address these concerns we have several concrete recommendations.

1. Seminary training should include at least 10 hours of instruction on child maltreatment

Our extended report outlines a ten-hour curriculum ideal for seminaries of any faith tradition. The proposed curriculum is already offered in at least two seminaries in the United States and, we believe, would assist future clergy in responding appropriately to instances of child abuse.

2. MDTs and faith leaders should collaborate on church policies

Child protection professionals are best equipped to evaluate the quality of a church child protection policy. Accordingly, we urge MDT members to offer this service to the faith community and for faith leaders to regularly seek this review.

3. Implement a Chaplains for Children training program within a year

In our report, we propose a rigorous, five day training program to better equip chaplains to address the spiritual needs of child abuse victims and to work with medical and mental health providers in helping a child heal. Properly trained chaplains may also be able to assist MDTs in myriad additional ways that are also detailed in our report.

4. Within three years implement a Chaplains for Child Protection Professionals training program

Although many law enforcement agencies have chaplains to assist officers and deputies, we believe these chaplains would benefit from a training program specifically designed to address the spiritual needs of child protection professionals, particularly the needs of professionals suffering vicarious trauma.

5. The HALOS program in Charleston should be replicated throughout the state

One of the most creative programs in the country for involving faith communities with child protection professionals is located in Charleston, South Carolina. In 1997, a pediatrician by the name of Eve Spratt worked with local churches, synagogues, public policy makers and DSS workers in creating a program called "Helping and Lending Outreach Support" or HALOS.

The concept behind HALOS is simple. Local DSS workers articulate the unmet needs of children and families they are working with and participating churches provide financial or other resources to meet the need. The needs met by HALOS can be as simple as helping cover registration fees for summer camp, or assisting a child in foster care in acquiring a prom dress.

We applaud the HALOS program for its work in three South Carolina counties as well as other states. We suggest that ministerial and other associations of faith leaders in every county in South Carolina form a working group to consider the feasibility of a HALOS program in their communities. In turn, these working groups will need to work closely with local DSS workers and officials to make sure the program is adding meaningful resources to families served by DSS and SAFY.

IMPROVING THE MANDATED REPORTING SYSTEM IN SOUTH CAROLINA

Many of the professionals we spoke with discussed instances of various professionals failing to report suspicions of abuse and suggested that additional training is needed. This information is consistent with a large body of research documenting the reasons many mandated reporters fail to report and noting that better training improves the quantity and quality of reports. To this end, we have several recommendations.

1. MDTs must increase community awareness of mandated reporter training

Although there is mandated reporter training available throughout South Carolina, there is concern that many reporters are not aware of course offerings. To this end, we suggest all MDT agencies list available training on their websites, social media pages and otherwise actively promote training opportunities.

2. Mandated reporter training for faith leaders and institutions

Many child protection professionals noted that faith leaders are often the least likely to report suspicions of child sexual abuse. Accordingly, we suggest MDTs make a concerted effort to reach faith leaders with training on child sexual abuse as well as reporting obligations.

3. Implement a “two plus ten” plan

We suggest the state adopt as its goal a minimum of two hours of in-person training each year for mandated reporters. Through the Children’s Law Center, South Carolina already has a 7.5 hour course in which law enforcement officers and other members of the MDT can be trained to provide mandated reporter instruction. Although every county can decide the number of trainers it may need, fully utilizing this vehicle can quickly expand the number of qualified instructors available in each community.

We also suggest that the two hours of annual training be supplemented with an additional ten hours of training that mandated reporters can access 24/7 online but must complete every three years. These courses can be included on a training portal accessed with a password provided through the Children’s Law Center or another statewide entity overseeing the project.

The online courses should supplement the onsite training by covering topics not commonly discussed with mandated reporting professionals including recognizing cases of emotional maltreatment, the impact exposure to domestic violence has on children, adverse childhood experience research, the impact of child abuse on spirituality, and the role of youth-serving organizations in building resiliency factors that assist maltreated children in overcoming trauma.

4. Parents should raise their voices

Parents can play an important role in improving the mandated reporting system by insisting that the day cares, schools and churches their children attend have adequate child protection policies and that the workers at these institutions are adequately trained to recognize instances of abuse. If even a small percentage of parents demand this change, change will come.

5. Prosecute egregious cases of failure to report child sexual abuse

It is important to remember that failing to report cases of child sexual abuse is a crime in South Carolina. To the extent MDTs discover that a reporter failed to report clear evidence of sexual abuse, the reporter should be prosecuted and appropriate licensing and other boards notified.

EXPANDING PREVENTION INITIATIVES IN SOUTH CAROLINA

1. A prevention resource guide

A number of professionals expressed an interest in promoting prevention but were unaware of available programs. Some of the professionals suggested the utility of a resource guide to assist them in implementing or aiding prevention initiatives. We believe a resource guide is a good idea and our report offers suggestions for its development and dissemination.

2. Prevention planning

In order to grow prevention initiatives, we suggest that, once a year, an agency in each MDT agrees to host a “prevention planning” day or, if need be, two days. During this event, the MDT would look at typical cases handled in the previous year and ask what, if anything, could have been done to prevent abuse? Perhaps the team noticed an increase in teenage pregnancies and observed that many of these young parents were lacking parenting skills and ended up physically hurting their children. In such a scenario, teenage pregnancy prevention programming or, where pregnancy cannot be averted, public health nurses or parenting classes for young mothers may have made all the difference.

There should also be an open discussion in which MDT members can share their observations over the years and offer thoughts on available programs that may have prevented at least some instances of abuse. From this discussion, the team should select 1-2 prevention initiatives they would like to implement (more than 2 likely becomes too much). A sub-committee should be formed to implement the program within a year.

3. Prevention scouting

Each year, every MDT should assign one or more team members to be “prevention scouts.” Those assigned this honor agree

to attend at least one national and as many state conferences as possible with the specific task of looking for evidence based prevention programs that might be a good fit for their communities. Once discovered, the job of the scout is to share these ideas with the local team and community. In this way, the team is constantly being invigorated with fresh ideas for taking prevention to a continually higher plane.

4. Color South Carolina blue

Within five years, every MDT in South Carolina should be able to claim that the counties in which they operate have at least five evidence based child abuse prevention programs. Through annual prevention planning days and active prevention scouting, this goal is readily achievable. The CAC chapter website should have a state map and, when a county has achieved this goal, it should be shaded blue—the color most often associated with child abuse prevention. If policy makers are so inclined, counties meeting this standard should be able to post road signs announcing the designation. It would be breathtaking to drive through every county in South Carolina and, with the crossing of each border, read a sign proclaiming “you are entering a blue county.”

IMPROVING SOUTH CAROLINA’S JUVENILE SEX OFFENDER REGISTRY

Many of the child protection professionals we spoke with expressed concern that South Carolina’s juvenile sex offender registration law may be too harsh and may actually be increasing the risk some children will offend in the future.

With the passage of the Adam Walsh Act, the registration of juveniles 14 and older may be more of a federal issue than a state issue. With respect to younger children, however, we suggest that South Carolina’s judges be given more discretion in assessing future risk and determining the appropriateness of lifetime registration. Since one-third of all child sexual assaults are committed by juveniles, there is also a need to look at additional means to reduce juvenile offenses.

A number of child protection professionals told us that reports of inappropriate sexual behavior among children below the age of 10 are often screened out of DSS unless there is evidence a parent knew of the conduct and failed to protect. There is, however, research suggesting that inappropriate sexual behaviors among young children are often the result of mimicking or sexual abuse. Accordingly, it is important to avoid a bright line rule that screens out or fails to assess cases involving concerning sexual behaviors.

REDUCING VICARIOUS TRAUMA

One law enforcement officer told us “It’s not hearing the kids’ stories that kills you, it is coming in every day and deciding which kids I can’t help.” This sentiment was expressed by many of the professionals we spoke with. There is a significant body of research documenting the impact of vicarious trauma on many child protection professionals. Accordingly, we suggest that every agency represented on South Carolina MDTs develop a concrete plan to address this issue. In our report, we offer 14 specific recommendations including mandated vacations, mental health support, manageable caseloads, and periodic rotation out of child abuse units.

THE SILENT TEARS TASK FORCE MUST CONTINUE

The leaders that made this study and report possible must stay engaged in the process to ensure a better future for victims of child sexual abuse. This may include raising funds, promoting policy reform, and conducting follow up studies. Simply stated, the issuance of this report is not an end to this process but only a beginning.

CONCLUSION: MAKING A VERY GOOD SYSTEM EVEN BETTER

It is important to keep in mind that, in many respects, the child protection system in South Carolina is among the best in the nation. Although the system has many challenges, these are challenges faced by every state. We hope this report will assist the MDTs of South Carolina in meeting these challenges and in making a very good system the envy of the world.



Safe Driving Checklist for Teens

A recent AT&T survey indicates that while 97 percent of teens know texting while driving is dangerous, 43 percent of them admit to sending a text while driving – and 75 percent say the practice is common among their friends. Here are a couple of ways to help keep your child safe behind the wheel:

Take the Pledge: Have your teen commit to being safe by signing a pledge against texting while driving like the one on www.itcanwait.com. Encourage him or her to share it with their friends, too.

Curb the Urge: Utilize apps like AT&T DriveMode™ that provides a customizable auto-reply message to incoming SMS or MMS messages, notifying the sender that the user is driving and cannot respond.*

Make it a Family Affair: Hold a family discussion to emphasize the dangers of texting while driving. Educate yourself and your child about the ramifications of texting while driving by utilizing the resources available at www.itcanwait.com, including educational brochures, posters and safety tips.

Hammer Home the Message: Show your children “The Last Text” – an AT&T documentary that features stories of real victims whose lives were altered – or even ended – by texting behind the wheel.

Know the Cost: Besides risking your life, teach your child on what else texting and driving can cost you. Learn the laws that govern texting in automobiles in each state by visiting <http://tinyurl.com/txttingcanwait>.

AT&T is committed to spreading the message that no text is worth dying for. Join us in the #itcanwait movement.

When it comes to texting and driving...it can wait.

itcanwait.com

Join the conversation: #ItCanWait

* National Highway Traffic Safety: <http://www.nhtsa.gov/Teen-Drivers>

*Data and text messaging charges may apply for download and app usage. Standard messaging rates apply to auto-reply messages. AT&T DriveMode is free to AT&T customers only. Compatible device required.

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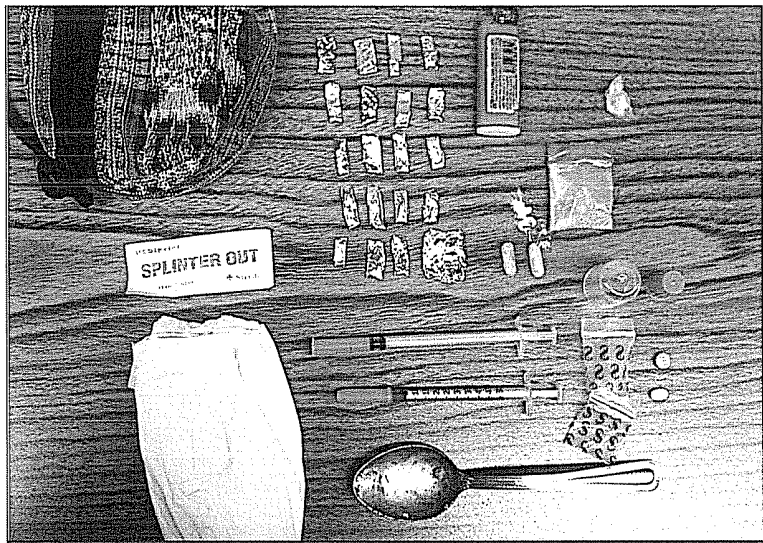
HEROIN: the basics

Heroin use is on the rise all over Wisconsin. Now that prescription drugs (the most commonly used illegal substance among teens besides marijuana) have become harder to obtain and abuse, young people from all walks of life are giving heroin a try. It's time you got the facts.

THE DRUG

Heroin is an illegal drug that produces an intense, euphoric high when smoked, snorted or injected. It's made from morphine, and like other opiates, heroin is highly addictive.

In its purest form, heroin (also called boy, white, cheeva, brown sugar, H, Juan and tar) is a fine white powder. But street heroin looks grey, tan, brown or black. That's because dealers "cut" the drug with other substances, from sugar and caffeine to Benadryl and quinine.



The number of teens between the ages of 12 and 17 who have tried heroin has increased by more than 300% since 1995, according to the Foundation for a Drug-Free World.

MYTH

Taking heroin is just like taking any other painkiller.

REALITY

It may be an opiate like morphine or oxycodone, but street heroin is much more dangerous. Additives make it impossible to know a dose's strength or purity, so every hit is a risk.

THE EFFECTS

Heroin is a sedative, so it slows down the body's normal functions. First-time users experience an intense, euphoric "rush" described by one Wisconsin teenager as a "painless, worriless, free feeling... like being a little kid again." The drug flushes the skin, makes arms and legs feel heavy and thoughts cloudy. It also dangerously slows a user's breathing and heartbeat.

Many heroin users seem drowsy while they're high. They drift in and out of consciousness. It's called "getting the nods," and it's one sure sign of heroin use.

THE ADDICTION

Statistics suggest that more than 75% of those who try heroin once will use again. But because the brain builds up a natural tolerance to the drug's effects over time, users must take more heroin more frequently to feel the same high. Eventually, addicts find themselves taking the drug just to feel normal.

The body's physical addiction to heroin is very real. Many users seek their next fix to escape the tortures of withdrawal, which include muscle and bone pain, fever, diarrhea and vomiting. These symptoms can last for days, even weeks—and the longer you've used heroin, the worse they can be.

MYTH

Snorting or smoking heroin is less addictive than injecting it.

REALITY

It doesn't matter how you do it. Snorting, smoking and injecting heroin are all equally addictive and just as dangerous.

THE DANGERS

Every time a person uses heroin, he or she risks dying from it. Overdosing on heroin is easy to do, since there's no way for a user to know how strong it is or what's really in it. The risks are even greater when heroin use is combined with other drugs or alcohol.

Heroin suppresses heart and lung function, causing users to pass out, even suffocate. People who overdose also face convulsions, coma and death. Other health risks include skin abscesses, liver disease, heart and lung infections. Users may even contract HIV/AIDS or hepatitis from sharing needles.

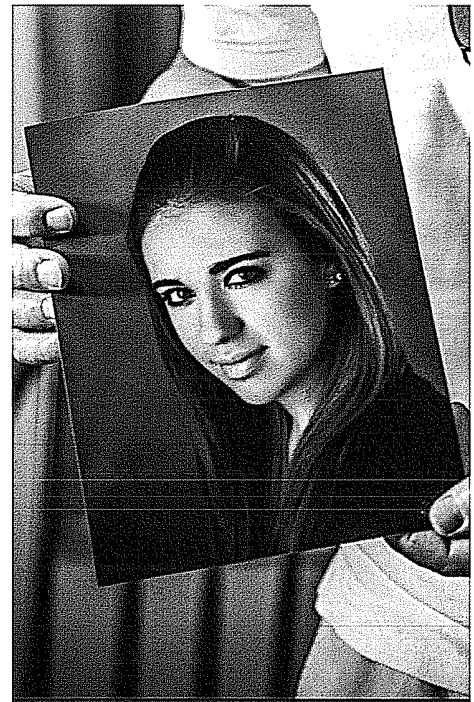
Of course, there are other consequences, like going to jail, or becoming the victim of violent crime and sexual assault.

The number of heroin-related deaths in Wisconsin jumped by nearly 50% in 2012, according to a recent survey of county coroners.



FOR MORE INFORMATION

visit
doj.state.wi.us
or call
(608) 266-1221



Danny's daughter Kara started using heroin her senior year of high school. She died of an overdose one year later. She was only 18.

HELP US FIGHT HEROIN'S SPREAD

LEARN MORE

Visit TheFlyEffect.com

Experience the heroin spiral for yourself, learn more about its destructive power and hear from real heroin survivors right here in Wisconsin.

Visit Drugfree.org

The Partnership at Drugfree.org offers information and tools to help prevent use and provide help for drug and alcohol abuse by young people.

GET HELP

Call 1-800-662-HELP (4357) or visit findtreatment.samhsa.gov

Free, completely confidential and available 24/7/365, SAMHSA's National Helpline and online Treatment Locator can help you find substance abuse treatment facilities, support groups and community-based organizations in your area.

EVERY SPIRAL HAS ITS START.

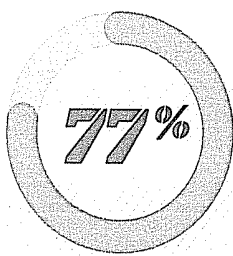
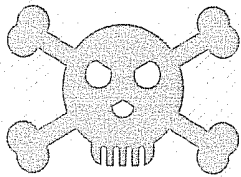


TheFlyEffect.com

No Text is Worth Dying for

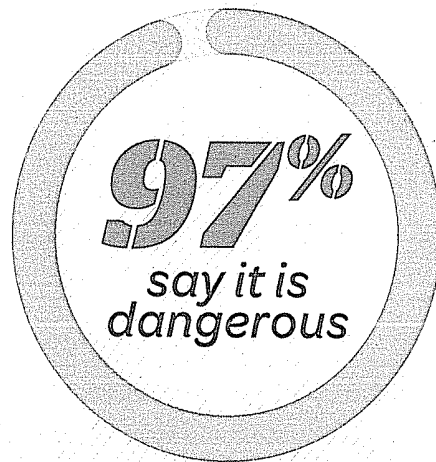
Join the #ItCanWait movement on September 19. Take the pledge and make a lifelong commitment to never text and drive: www.itcanwait.com.

More than
100,000
crashes
a year involve drivers
who are texting,¹
causing life-changing
injuries and deaths

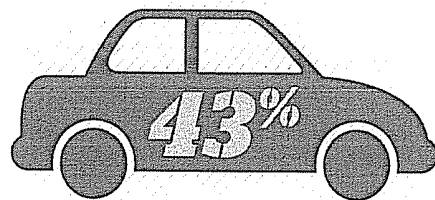


77%
of teens
have seen their
parents text
and drive
– and 75 percent
say it is “common”
among their friends.²

Teens know that
texting while driving
is dangerous.



but ...



43%
of teens admit to
texting while driving.²

Texting drivers are 23 times
more likely to be in an accident.³

¹ National Safety Council www.nsc.org

² AT&T Wireless Survey http://www.att.com/Common/about_us/texting_driving/att_teen_survey_executive.pdf

³ Virginia Tech Transportation Institute Research, www.vtti.vt.edu

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ABOUT CBP

CBP is the agency of the Department of Homeland Security responsible for securing U.S. borders and facilitating legitimate trade and travel.

CBP Mission

We are the guardians of our nation's borders. We are America's frontline.

We safeguard the American homeland at and beyond our borders.

We protect the American public against terrorists and the instruments of terror.

We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel.

We serve the American public with vigilance, integrity and professionalism.

CBP Strategic Goals

Preventing terrorism; unifying as one border agency; balancing trade and travel with security; protecting America; modernizing and managing for results.

KEY LEADERS

Homeland Security Secretary: Jeh C. Johnson

Commissioner: R. Gil Kerlikowske

Acting Deputy Commissioner: Kevin K. McAleenan

Chief, Border Patrol: Michael J. Fisher

Acting Assistant Commissioner, Field Operations: John P. Wagner

Assistant Commissioner, Air and Marine: Randolph D. Alles

HISTORY

1789: The fifth act of the first Congress establishes Customs.

1862: The U.S. Department of Agriculture is created to "procure, propagate and distribute among the people new and valuable seeds and plants."

1904: The U.S. Immigration Service is assigned a small force of mounted inspectors to patrol the border to prevent illegal crossings.

1912: The Department of Agriculture's Plant Protection and Quarantine Program at ports of entry evolves out of the creation of the Federal Horticultural Board.

1924: Congress establishes the United States Border Patrol as part of the Immigration Bureau, an arm of the Department of Labor.

1993: Operation Hold the Line is established, marking a shift toward forward deployment to deter illegal border crossings.

2003: Bureau of Customs and Border Protection is established becoming the first joint border management agency in the world and the largest federal law enforcement agency in the United States.

2004: CBP begins receiving advanced information on cargo coming to the U.S. allowing the agency to further guard the country against terrorist threats.

2005: Hurricane Katrina strikes the gulf coast and the Florida panhandle. CBP assists in rescue and recovery and works to divert cargo traffic to other ports.

2010: Faisal Shazad, known as the Times Square Bomber, is apprehended at JFK Airport by CBP officers moments before escaping the United States.

2011: Centers of Excellence and Expertise become operational, bringing important new capabilities to CBP's trade and security mission.

2011: CBP's unmanned aircraft system is deployed to provide the National Weather Service and emergency responders with real-time images during the Red River floods in Minnesota and North Dakota.

2013: CBP marks the 10th anniversary of its founding in 2003.

ON A TYPICAL DAY, CBP:

- Processed:
 - » 992,243 passengers and pedestrians
 - 280,059 incoming international air passengers and crew
 - 48,994 passengers and crew on arriving ship/boat
 - 663,190 incoming land travelers
 - » 67,337 truck, rail, and sea containers
 - » 269,753 incoming privately owned vehicles
- Conducted 1,153 apprehensions between U.S. ports of entry
- Arrested 22 wanted criminals at U.S. ports of entry
- Refused 366 inadmissible persons at U.S. ports of entry
- Discovered 440 pests at U.S. ports of entry and 4,379 materials for quarantine - plant, meat, animal byproduct, and soil
- Seized:
 - » 11,945 pounds of drugs
 - » \$291,039 in undeclared or illicit currency
 - » \$4.7 million dollars' worth of products with Intellectual Property Rights violations
- Identified 137 individuals with suspected national security concerns
- Intercepted 48 fraudulent documents
- Employed 59,969 CBP employees, including:
 - » 21,650 CBP officers
 - » 2,382 CBP Agriculture specialists
 - » 20,979 Border Patrol agents
 - » 766 Air Interdiction agents (pilots)
 - » 343 Marine Interdiction agents
 - » 116 Aviation Enforcement officers
- Deployed more than 1,500 canine teams and 250 horse patrols
- Flew 169 hours of enforcement missions over the United States
- Conducted operations at:
 - » 328 ports of entry within 20 field offices
 - » 136 Border Patrol stations and five substations within 20 sectors, with 35 permanent checkpoints
 - » 22 Air and Marine branches, five National Security Operations, and one Air and Marine Operations Center

Note: Based on FY 2013 data.



TOP RESPONSIBILITIES

Border Security: CBP secures America's borders at and between ports of entry by stopping inadmissible people and illicit goods. CBP's offices of Field Operations, Border Patrol and Air and Marine represent the largest federal law enforcement agency.

Trade: CBP works to secure and facilitate imports arriving in the U.S., accommodating the increasing volume and complexities of international trade. CBP protects U.S. agricultural resources through active inspections at ports of entry. With the Container Security Initiative, Customs-Trade Partnership Against Terrorism and the Automated Commercial Environment, CBP has a sturdy base of partnerships and technology to safeguard the American public and promote legitimate international commerce.

Travel: Fostering safe and speedy international travel is a key goal of CBP, which has been increasing passenger security through effective risk assessment, growing trusted traveler programs and better use of technology. CBP's Model Port Initiative is active in the 20 largest airports in the nation, providing audio and video instruction, queue management and assigned personnel to enhance the traveler's experience. CBP takes seriously its role in welcoming our guests to the U.S.

KEY PROGRAMS AND INITIATIVES

Global Entry: This program allows pre-approved, low-risk U.S. citizens and lawful permanent residents expedited clearance upon arrival into the U.S. Participants will enter using automated self-service kiosks and are generally exempt from routine CBP questioning.

Electronic System for Travel Authorization: ESTA is an automated system used to determine the eligibility of visitors from Visa Waiver countries prior to boarding a carrier to travel to the U.S. ESTA enhances the security of these travelers and will allow the U.S. government to continue to expand the program with our most trusted allies.

Customs-Trade Partnership Against Terrorism: Under C-TPAT, importers who meet certain security standards are provided expedited processing benefits. This enables CBP to facilitate legitimate trade while focusing resources on unknown or high-risk shipments.

Automated Commercial Environment: ACE is a modernized commercial trade processing system with features designed to consolidate and automate border processing. It provides a solid technology foundation for all border security initiatives within CBP.

Centers for Excellence and Expertise: This program brings modern management by account protocols to CBP's trade administration process. As products become more advanced and require rapid processing to maintain U.S. competitiveness, CBP has set up 10 centers of expertise in dealing with products ranging from electronics to pharmaceuticals to petroleum and textiles.

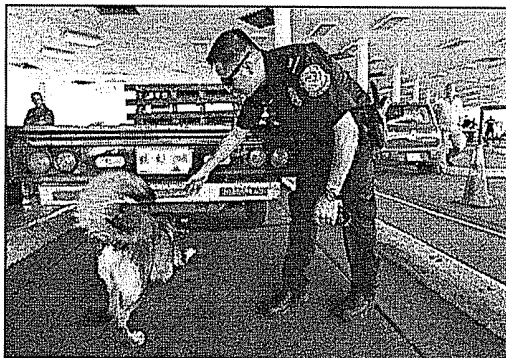
Border Safety Initiative: BSI is a humanitarian, bi-national strategy designed to reduce migrant deaths and make the border safer for agents, border residents, and migrants. The intent of the initiative is to educate and inform potential migrants of the dangers and hazards of crossing the border illegally and to respond to those who are in life-threatening situations.



Air interdiction agents in a Blackhawk helicopter are preparing for a rescue mission of an illegal alien stranded on a ledge of the Cerro Colorado Mountains near Arivaca, Ariz.



Border Patrol in south Texas removes tracks that could lead aliens illegally across the border.



CBP officer and canine inspect inbound vehicles at the Juaréz Lincoln Bridge port of entry in Laredo, Texas.

Photos by U.S. Customs and Border Protection

ON THE WEB

DHS: www.dhs.gov

CBP: www.cbp.gov

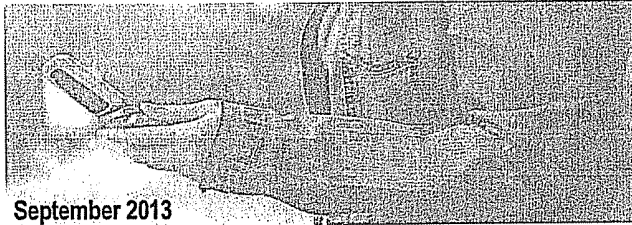
CBP Travel Info: www.cbp.gov/travel

CBP Import Info: www.cbp.gov/trade

CBP News: www.cbp.gov/newsroom

CBP Careers: www.cbp.gov/careers

Federal Job Opportunities: www.usajobs.gov



September 2013

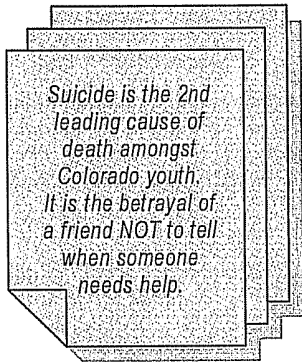
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Executive Director
susan@safe2tell.org

Natasha Sansoni
Communications Manager
natasha@safe2tell.org

Mission

To ensure that every Colorado student, parent, teacher and community member has access to a safe and anonymous way to report any concerns to their safety or the safety of others, with a focus on early intervention and prevention through awareness and education. ❖



Results

From September 2004 to August 31, 2013, numerous calls/web reports/texts/ have been received resulting in 8,649 Tip Reports from 163 Colorado cities and 59 counties. They include (but are not limited to) the following categories:

- 2,155 Bullying
- 273 Assaults
- 282 Planned School Attacks
- 1,330 Drugs/ Alcohol
- 335 Cutting
- 67 Domestic Violence
- 107 Depression
- 1,274 Suicide Interventions
- 258 Fighting
- 18 Animal Cruelty
- 792 Threats of Violence
- 60 Gangs
- 84 Thefts
- 445 Harassment
- 317 Guns/Weapons
- 83 Sexting
- 462 Sexually Related Crimes
- 409 Child Abuse
- 68 Vandalism

When young people feel threatened or unsafe, they need to know that they are **Safe2Tell**.

Background

Research shows that in 81% of violent incidents in U.S. schools, someone other than the attacker knew it was going to happen but failed to report it. According to the Columbine Commission's report, young people are reluctant to report threats due to a student culture that fosters and enforces a "code of silence".

Safe2Tell provides students and adults in all Colorado schools and communities an increased ability to both prevent and report violence by making safe, ANONYMOUS calls.

Anonymity is key. Both state law and the procedures established by Safe2Tell for receiving and forwarding tips guarantees the anonymity of every caller. Calls are answered at a Colorado State Patrol communication center. When action is needed, information is immediately forwarded to local



school officials and law enforcement agencies, as appropriate.

Safe2Tell then goes the extra step and follows up with the school who received the tip to ensure that it was investigated and that action was taken. The assurance that calls cannot be tracked and that appropriate action will be taken is helping persuade young people to move away from a code of silence and to take a stand.

One benefit of empowering students to help create their own safe school environment is increased academic performance. Dr. Del Elliott of the Center for the Study and Prevention of Violence states, "In some cases, there is little reason to believe that changes in curriculum or instructional practices will have any significant effect on academic performance until kids feel safe and respected at school." ❖

Perpetrator arrested following an investigation after student tells friend she was raped.	School suspension enforced after 3" pocket knife and drug paraphernalia found on student.	School evacuated after pipe bombs reportedly planted around school and parking lot.
Harassing comments on Instagram leads to summons for third-degree harassment.	Safe2Tell™ calls are making life safer and better one student, one school, one community at a time	Suspect seen using cocaine at parties. Investigation leads to arrest for felony possession with intent to distribute.
Comment by student to "go all Columbine" leads to a 72-hour mental health hold.	"Strapped Up" student suspended for gang affiliation and recruiting.	Comments on Facebook about subject wanted to slit his throat results in transport to hospital for a mental health hold.

Colorado Attorney General's Office



Executive Summary

Mission

To ensure that every Colorado student, parent, teacher and community member has access to a safe and anonymous way to report any concerns to their safety or the safety of others, with a focus on early intervention and prevention through awareness and education.

Background

Shortly after the tragedy at Columbine High School in April of 1999, Colorado State officials convened a commission to complete an inquiry into events surrounding the school attack and proposed strategies to help prevent future school violence. The Columbine Commission recommended an anonymous process whereby students or others could contact authorities to share concerns about potential threats of violence or other harmful behavior. According to the Commission's findings, young people are reluctant to report threats due to a student culture that fosters and enforces a "code of silence." Colorado is at the forefront in breaking the code of silence prevalent in schools today.

Safe2Tell™ was started to allow students to anonymously report threats to their own, and others, safety. The Colorado non-profit organization educates students on the dangerous outcomes of remaining silent and gives them an anonymous mechanism for sharing information about any threat of violence or potential injury. Safe2Tell™ provides students and adults in all Colorado communities an increased ability to both prevent and report violence by making safe, ANONYMOUS calls.

Research shows that in 81% of violent incidents in U.S. schools, someone other than the attacker knew it was going to happen but failed to report it.

As a result of the Safe2Tell™ program's successes, the Colorado General Assembly passed Senate Bill 07-197 (see § 16-15.8-101 et seq., C.R.S) to protect the anonymity of the hotline and ensure confidence of callers. The assurance that calls cannot be traced and that appropriate action will be taken helps persuade young people to move away from the "code of silence" culture. Safe2Tell™ uses peer pressure in a positive way by empowering young people to recognize that loyalty to friends sometimes means taking threats seriously and asking for help on their behalf. Safe2Tell™ provides a reporting tool, empowering bystanders to act early for effective, safe intervention. Safe2Tell™ also offers proven strategies to influence change in infrastructures, thereby improving the culture and climate of schools and communities.

The Need

Youth violence, according to the seminal Surgeon Generals Report on Youth Violence, is a highly visible problem that affects all segments of our society. Because of its impact on victims, their friends and family, and society at large, youth violence has been designated a public health concern, thereby emphasizing the need for effective prevention. Communities now focus on collaborative prevention efforts with support from multiple systems: justice, education, health, mental health, and human services. Safe2Tell™ provides a unique bridge between these agencies and the youth who may need help to avert an act of violence or injury.

According to the US Secret Service *Safe School Initiative* study of school shootings and other school-based attacks, perpetrators exhibited concerning behavior to others prior to the violent incident in 93% of the cases.

Youth violence incorporates many different behaviors, including bullying, cyber bullying, sexting, animal cruelty, weapons, fire starting, dating violence, assault, homicide and suicide. According to the Centers for Disease Control and Prevention's (CDC) Injury Center, youth who are victims of violence or who witness violence in their communities fall prey to not only injury or death in the worst instances, but other serious consequences like posttraumatic stress disorder, depression, and substance abuse. The annual costs associated with youth violence exceed \$158 billion in the United States.

We know that targeted school shootings rarely happen without some sort of warning sign. The U.S. Secret Service conducted the *Safe School Initiative*, a study of school shootings and other school-based attacks finding that usually "at least one other person had some type of knowledge of the attacker's plan." Most of those individuals who had prior knowledge were peers of the perpetrators. This suggests that peers often know about potential threats to their safety and risky behaviors of their friends and classmates, and often fail to alert authorities about their suspicions. Research conducted by the U.S. Secret Service on school violence shows that if students think that telling a teacher about a situation that may pose danger to the school will result only in punitive action against that individual, they are more likely to keep quiet. If, on the other hand, they think that the result would be to get some help for that person, or their identity will remain anonymous, then they are more willing to talk. The importance of developing an effective intelligence system cannot be overstated.

Research conducted by the Center for the Study and Prevention of Violence at CU-Boulder (CSPV) indicates that the two most effective prevention strategies to prevent school violence are (1) creating and sustaining a safe school climate; and (2) developing an effective intelligence-gathering system. Creating a safe school climate includes: implementing evidence-based programs based on need; adopting prevention and intervention activity to deal with bullying; planning and creating a culture of safety and respect; enabling students to develop trusting relationships with at least one adult; and finding a mechanism to sustain this kind of climate. Typically, this process starts by assessing the existing school climate, administering a survey to establish the perceptions of students, teachers and other staff about these characteristics of the school. Moreover, safe schools take a strong, caring stance against the code of silence.

In addition to addressing issues surrounding violent behaviors, prevention and reporting programs are effective in other areas that limit youth's ability to succeed, such as bullying and substance abuse. High school dropouts are 3.5 times more likely to be arrested than high school graduates and more than eight times as likely to be incarcerated. Incarceration data shows that 80% of all inmates in a criminal justice facility enter with a substance abuse problem (School Library Journal, *Crime Linked to Dropout Rates*, www.schoollibraryjournal.com/article/CA6590701.html, 8/27/2008). Young people are the first to know before adults when someone is engaging in risky or life threatening behaviors, but are often afraid to tell someone. When someone remains silent, the safety and lifetime successes of students are at stake.

Current cultural tendencies promote a practice of not becoming involved in other people's issues or problems. Adults and children now live in an environment where there exists less of a sense of civic responsibility to intervene on the behalf of others. In order to break the code of silence, effective programs improving the culture and climate of schools and communities need to change the philosophy that anyone can do what they want without others speaking up. It is vital to have intentional conversations that will empower children and teens to speak up, without fear of retaliation, embarrassment or labeling. Bystanders need to know there is hope and help, with caring adults ready to intervene and advocate for their support.

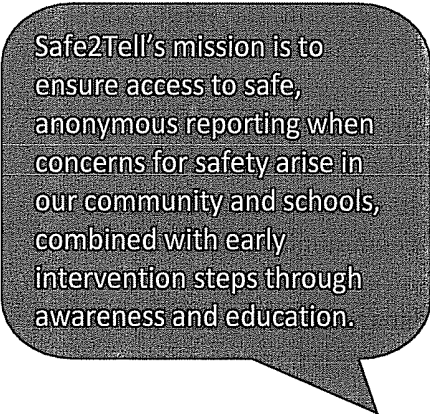
Programs

The goal of Safe2Tell™ is to intervene at the earliest possible point in the life a young person who is struggling, helping them when they need it before the situation turns into a tragedy. Safe2Tell™ serves as the statewide hotline for concerns in Colorado. The Safe2Tell™ hotline was developed specifically to encourage those with information about a possible event to report it. All reports are anonymous, protecting the identity of the caller, and each one is followed up to determine what action, if any, was taken. Tips are submitted anonymously by phone; all information is taken seriously; and appropriate action is taken in response to credible information. Anonymity is key. Both state law and the procedures established by Safe2Tell™ for receiving and forwarding tips guarantees the anonymity of every caller.

Calls are answered twenty-four hours a day, seven days a week at a Colorado State Patrol communication center. The answering point is live and provides an opportunity for a two-way dialogue with trained experts who document as much information as possible with an opportunity for additional information to be called in as necessary. To ensure complete anonymity, there is no caller ID or call tracing. When action is warranted, information is immediately forwarded to local school officials, mental health professionals, and law enforcement agencies, as appropriate.

Safe2Tell™ then goes the extra step and follows up with the school that received the tip to ensure that it was investigated and that action was taken. The assurance that calls cannot be tracked and that appropriate action will be taken is helping persuade young people to move away from a code of silence and to take a stand. One benefit of empowering students to help create their own safe school environment is increased academic performance.

Safe2Tell™ is focused on raising the awareness of the issues facing young people today and empowers young people to be part of the solution. Safe2Tell™ provides training modules, “Conversation Jumpstarts” to provide counselors and school resource officers with a tangible tool to have a guided classroom discussion. While discussing issues trainers talk about the code of silence, when it is appropriate to make a report, and what happens when a report is made. This training component is an important aspect of the Safe2Tell™ initiative.



Safe2Tell's mission is to ensure access to safe, anonymous reporting when concerns for safety arise in our community and schools, combined with early intervention steps through awareness and education.

Safe2Tell™ is unique in three ways: there is a state law in place to protect the anonymity of callers; there is extensive follow up to assure that calls are dealt with professionally and appropriately; and preliminary data indicate that this program shows promising results for improving school climate and perceptions of safety.

Safe2Tell™ is about prevention, early intervention and opening lines of communication. The program provides students with the opportunity to seek help, guidance and counseling from a trusted source. Safe2Tell™ offers education and training on identifying at-risk behaviors in students and creating a safe

learning environment. The Safe2Tell™ program has played a key role in suicide prevention, bullying and physical violence intervention, and addressing substance abuse. The high numbers of reports to Safe2Tell™ are the precursor to early intervention opportunities and demonstrate the cultural change of bystander reporting becoming more of an accepted practice.

Measurable Outcomes

Safe2Tell™ has a unique distinction in measuring outcomes of program success due to the required follow-up and accountability information received on 88% of all reports generated. This data provides specific measurements of program effectiveness, critical incident trends, awareness raised, prevented incidents, demographic-specific usage and detailed intervention outcomes. Evaluation reports are generated monthly, measuring each of the aforementioned components. The impact on school and community safety when dangerously violent acts are prevented and lives are saved can seem immeasurable; however, Safe2Tell consistently shows on-going measurable outcomes and results.

The strength of the Safe2Tell program is that impact results are immediate. If the education and awareness messages received by students have an impact, they will make Safe2Tell reports. Since calls have increased by 500% each year, demonstrating that the impact is great. If student-related problems are followed-up with successful outcomes, then return Disposition Reports from school staff and local law enforcement show measured improvement in their responses to Safe2Tell™.

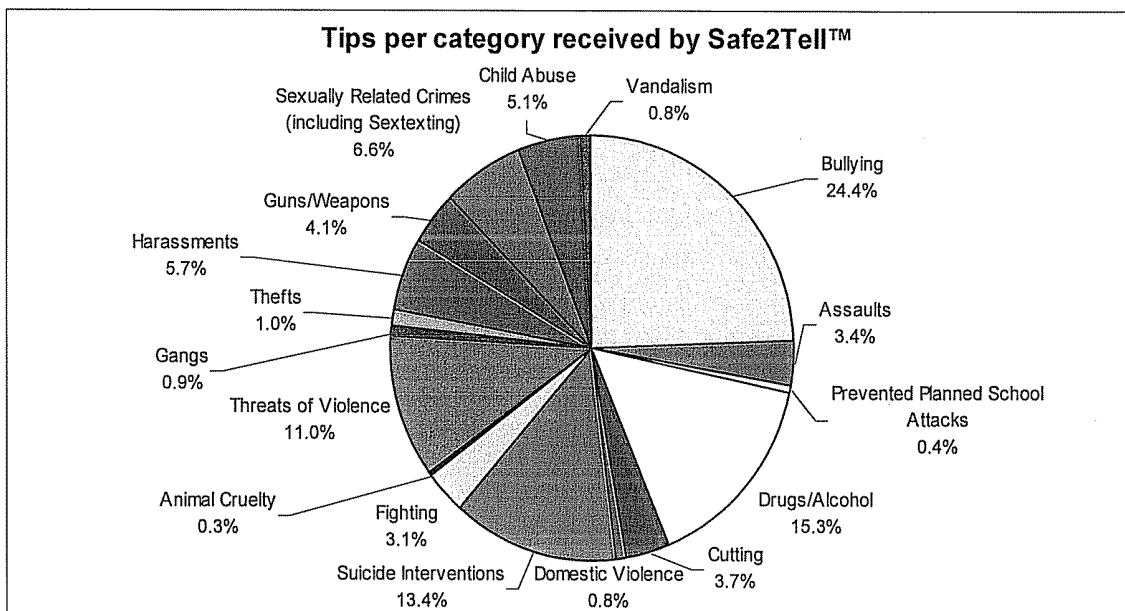
Results

Safe2Tell™ is one of the most viable long-term solutions in Colorado for advancing school and community safety. Data shows that 83 percent of incidents reported to Safe2Tell™ resulted in

positive intervention or action (Elliot, D. & Payne, S., *Safe2Tell*, New Directions for Youth Development; Vol. 2011 Issues 129, p.103-111, Spring 2011).

Between 2004 and 2012, Safe2Tell™ has received thousands of calls, web tips and texts. Some 6,693 tip reports have been come in from 163 cities and 59 counties within the state of Colorado. The resulting prevention and intervention activities are conducted by local law enforcement and/or school officials and often by both. Critically, 28 planned school attacks were prevented along with over the intervention in over 890 threats of suicide, 734 threats of violence, and 442 sexual offenses. Safe2Tell™ has coordinated with local agencies in 1,636 bullying cases, 338 child abuse cases, and 275 reports of guns/weapons in schools. The chart below captures the types and percentages of tips received by Safe2Tell™:

The Safe2Tell solution has proved to be immensely successful in saving lives and preventing tragedy with a 1,050% rate of growth since 2004 in program usage.



Research has shown that when students feel safe, they perform better academically and Safe2Tell™ provides that safety net. There is no better prevention program in Colorado that provides for a positive school climate and positive youth development.

Organizational Structure

Safe2Tell™ is unique in the State of Colorado, offering a true multi-faced approach to information-sharing requirements by Colorado State Law (www.state.ago.co.us: CRS 22-32-109.1(3) and CRS 19.1.303 and 304) for both school and law enforcement officials. The program offers a wrap around focus on school safety, prevention efforts, early intervention and positive outcomes that is not being duplicated elsewhere.

Safe2Tell™ is a 501c3 operating under the auspices of the CO Attorney General’s Office. Safe2Tell™ Executive Director Susan Payne is a full-time state employee of the Attorney

General's Office. Safe2Tell™ program staff work under the organization's 501c3 non-profit state with guidance of a voluntary, multi-disciplinary Board of Directors. Safe2Tell™ calls are answered under the CO Dept of Public Safety at the CO State Patrol Communications Center in Denver. The Colorado State Patrol of Pueblo 911 Communication Center answers Safe2Tell™ web reports. Text tips are answered by the Jeffco Communications Center. During the 2011-12 school year, Safe2Text capabilities were made available in Adams and Denver counties, where communication centers were trained to receive texting reports.

Strategic partners include the CDPHE Office of Suicide Prevention, the CO Dept. of Education, The Center for the Study & Prevention of Violence, the CO Assoc. of School Resource Officers, the CO Assoc. of School Executives and the CO Assoc. of School Safety & Law Enforcement Officials.

For more information about Safe2Tell™, please visit our website at www.safe2tell.org.

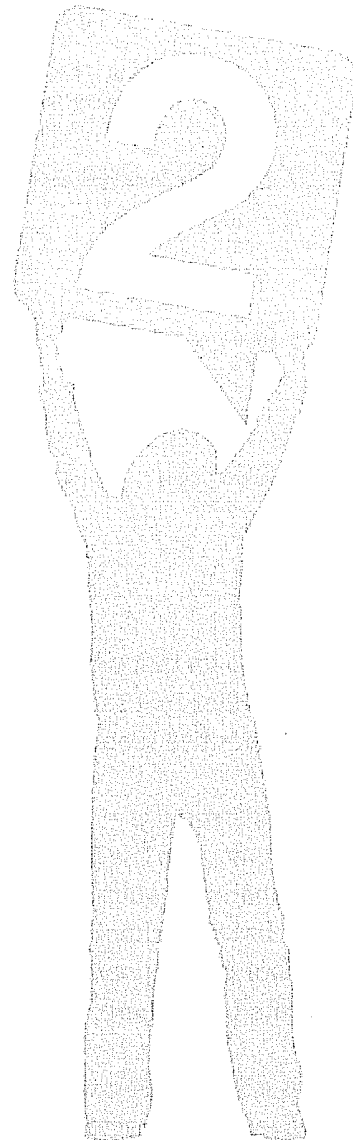
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INTRODUCTION

This is the latest issue of the NAGTRI E-Discovery Bulletin, a compendium of recent case law, publications and legislation pertaining to electronic discovery issues to be published monthly. It is supported by the National Association of Attorneys General Training and Research Institute (NAGTRI) and written by Hedda Litwin, Cyberspace Law Counsel. The Bulletin welcomes articles and information from its readers for upcoming issues.

ADVISORY COMMITTEE APPROVES PROPOSED RULE AMENDMENTS

On April 10-11, 2014, the Advisory Committee on Civil Rules met and unanimously approved proposed amendments to the Rules of Civil Procedure, including changes published for public comment. On April 10, the Committee approved proposed amendments to Rules 1,4, 16, 26 and 34, including the Duke Subcommittee's recommendations outlined in the Advisory Committee's Agenda Book (as discussed in the April 2014 issue of the NAGTRI E-Discovery Bulletin). Among other things, the amendments would add considerations of proportionality to the factors in determining a proper scope of discovery in Rule 26(b)(1); shorten the time for service under Rule 4(m) to 90 days, add the preservation of ESI agreements to the allowed contents of a Rule 16 scheduling order; and allow early delivery of Rule 34 requests prior to the parties' Rule 28(f) conference.

On April 11, the Committee discussed and ultimately approved amendments to the highly debated Rule 37(e), after making further revisions to the ver-

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sion proposed by the Discovery Subcommittee. The final version is limited to the loss of ESI and was unanimously approved. The text of that version is provided below.

The proposed amendments, as adopted by the Advisory Committee, will be submitted to the Committee on Rules of Practice and Procedure ("the Standing Committee") on May 29-30, 2014 for review and potential approval.

The proposed Rule 37(e), as approved, is as follows:

"(e) FAILURE TO PRESERVE ELECTRONICALLY STORED INFORMATION. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve the information, and the information cannot be restored or replaced through additional discovery, the court may:

- (1) Upon a finding of prejudice to another party from loss of information, order measure no greater than necessary to cure the prejudice;
- (2) Only upon a finding that the party acted with the intent to deprive another party of the information's use in the litigation:
 - (A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.”

NY COURT PROPOSES PRIVILEGE LOG CHANGES

The New York Supreme Court’s Commercial Division proposed extensive changes to privilege logs in an effort to simplify the process. The court’s proposal, published for comment on April 3, 2014, would require litigants in the Division to agree, where possible, to use a “categorical approach” to privilege designations, rather than a “document-by-document” log.

Currently New York Civil Practice Law and Rules mandates a party withholding documents on the basis of privilege produce a privilege log: 1) containing a separate entry for each document bring withheld; 2) providing “pedigree” information for each such document; and 3) setting forth the specific privileges or immunities insulating the document from production. As acknowledged in the proposal, “the segregation, review, redaction and document-by-document logging of privileged information is both time-consuming and costly,” and this cost is rarely justified by any potential benefits a privilege challenge may have on the outcome of the litigation.

To implement the changes, the proposal would add discussion of categorical privilege logs to the list of topics to be discussed at a pre-discovery meet-and-confer under Rule 8 of the Rules of the Commercial Division. Although technically optional, the rule would effectively be self-enforcing as a party refusing to accept a categorical privilege log could be required to pay attorney’s fees to the producing party to offset the cost of document-by-document logging.

The proposal allows the parties to determine the designation of categories, but notes the producing party must make a written certification for each category setting forth with specificity the facts supporting the privileged or protected status as well as describing the steps taken to identify the documents so categorized, including whether each document was reviewed or whether sampling was used. That certification would have to be signed by a supervising attorney actively involved in the review.

The proposal may be accessed at <http://www.nycourts.gov/rules/comments/pdf/pcpacketprivilegelogs.pdf>. Comments can be submitted by email to rulecomments@nycourts.gov until June 2, 2014.

RECENT CASE LAW

PRODUCTION IN WRONG FORMAT: DATA IN THE CLOUD

Equal Employment Opportunity Commission v. SVT, LLC, 2014 WL 1411775 (N.D. Ind. April 10, 2014). The U.S. District Court for the Northern District of Indiana granted the plaintiff’s motion to compel. In this gender discrimination case, the Equal Employment Opportunity Commission (EEOC) alleged SVT disproportionately hired more males than females, despite receiving more applications from qualified females, and sought back pay on behalf of females as a class. Pursuant to FRCP 34(b)(1)(c), the EEOC requested SVT to produce documents in near native .TIFF format, with spreadsheets and databases to be produced in native format. Although SVT stated it would comply, it failed to produce in the correct formats, claiming it had produced “pursuant to industry standards.” The EEOC moved to compel, including an affidavit by its litigation support manager explaining the issues with SVT’s production and claiming the files were unusable because they could not be searched or manipulated in their current format and arguing it would not be un-

duly burdensome to provide the data in native format. SVT argued the documents requested were not in its control because the data was kept in a third party cloud application. The court disagreed, holding the documents are in a party's control when they have the legal right to obtain them. The court granted the motion and further ordered the parties to conduct a meet and confer.

DELETION OF FACEBOOK POSTS: DUTY OF COUNSEL

Painter v. Atwood, 2014 WL 1089694 (D. Nev. March 18, 2014). The U.S. District Court for the District of Nevada ruled counsel should have informed plaintiff of her duty to preserve. In this sexual harassment case brought by Heather Painter against her former employer, dentist Aaron Atwood, Atwood claimed Painter and her two witnesses intentionally destroyed text messages and Facebook posts contradicting her claim that Atwood fostered a hostile work environment. The district court found Painter had spoliated evidence by deleting certain Facebook posts, but Atwood did not meet his burden of showing culpability for the deletion of the emails. Painter's counsel argued that Painter, as a 22-year-old, did not know better than to delete her information. The court rejected that argument, flatly stating her counsel should have informed her of her duty to preserve evidence and the full extent of that obligation. The court issued an adverse inference instruction as a sanction for the spoliation.

Research & Policy Brief Series

ISSUE NUMBER 58/FEBRUARY 2014

Are We Unprepared for "Pipelines on Rails"? Oil Transport Risks & Policy Challenges

By Susan Christopherson, Cornell University¹

What is the Issue?

In July 2013, a 74-car train carrying crude oil from North Dakota derailed in Lac Megantic, Quebec. Multiple tank cars exploded and a massive fire left 47 people dead. This catastrophe and its aftermath awakened North Americans to a dramatic increase in crude oil transport by rail. Since the conflagration in Quebec, five additional serious derailment accidents have occurred in Canada and the US, producing explosions, fires and population evacuation, though fortunately no further loss of life. This brief reviews the origins of the current surge in crude oil transport, the risks associated with moving this hazardous substance across the Great Lakes states into the Northeast, and how federal, state and local governments are responding to prevent future catastrophes.

The Context

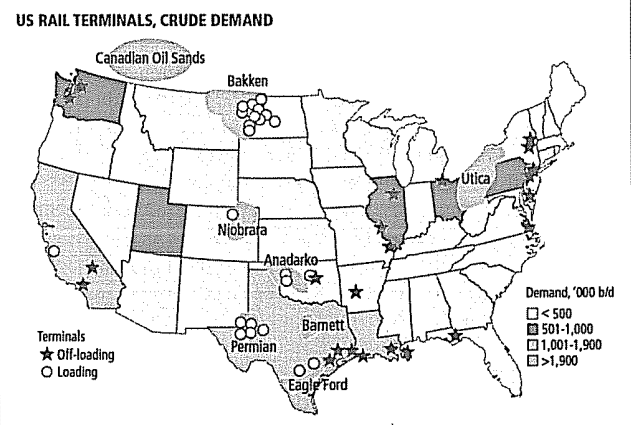
Since 2010, use of land and water transport networks connecting energy extraction sites in the Western US and Canada with refineries and ports on the East, West, and Gulf Coasts has grown exponentially, posing environmental and safety risks along rail lines and for transshipment centers and waterways. The number of crude oil carloads hauled by U.S. railroads surged from 10,840 in 2009 to a projected 400,000 in 2014.

They are carrying several types of crude across the Great Lakes states and provinces: 1) light crude shale oil, particularly from North Dakota's Bakken Shale; 2) heavy crude from the Bakken region, which is sometimes mixed with light crude; and 3) exceptionally heavy "tar sands" crude, sometimes as diluted bitumen ("dilbit").

It is expected that both light crude from shale plays and heavy crude from Alberta oil sands will play a prominent role in commodity transport in the Great Lakes States into the 2020s. And because of their historic role in commodity transport and their access to coastal refineries, the Great Lakes themselves and their waterways will be part of the transportation routes.

Some suggest that the risks of oil transport could be solved by construction of West-to-East pipelines. While preferable from a safety standpoint, oil pipelines are expensive, take time to construct and have fixed routes, so the oil & gas industry prefers rail transport. Rail provides the transportation flexibility they need as production increases in one shale play and ebbs in another.² These "pipelines on rails" span many states, and move through highly populated areas.

Map 1: The Great Lakes States are central to the transport network



Source: "Outlook for Rail Crude Oil Transport" Rail Energy Transportation Advisory Committee. Surface Transportation Board. Mar. 14, 2013

The Regulatory Gap

A preliminary examination of issues arising from rail transport of crude oil indicates that existing regulatory policy and capacity are not sufficient to address the risks to the public, property, or the environment. The National Transportation Safety Board has acknowledged that transport of crude oil by rail has increased dramatically in a short period of time, without a concomitant increase in monitoring or regulatory capacity. This lack of capacity is recognized in a 2013 federal report by the Government Accountability Office, noting that *only 1%* of the railroad infrastructure in the US is examined by the Federal Railroad Administration (FRA) every year, and that the FRA lacks the capacity to examine the broader risks associated with transport of crude oil across multiple states and through highly populated regions.³

The FRA's responsibilities have been defined very narrowly. As the GAO report spells out, the FRA is understaffed, slow to move, and reactive; it carries out activities such as safety checks, rather than developing and implementing performance-oriented regulation. As a consequence, some risks emanating from crude oil transport are not effectively monitored, others are not regulated at all.

However, the scope of action at the state and local level is severely limited by the "railroad exception", whereby the ability to regulate

¹ This project was funded by the New York State Department of Environmental Conservation Hudson River Estuary Program, and administered through The Cornell Water Resources Institute. The author would like to thank Ned Rightor, Tim Truscott, Fred Millar, Susan Riha, Brian Rahm, Russell Van Herik, Tim Eder and Tom Crane for their valuable input on these issues.

² Lewis, J. 2013. "CP Rail oil shipment deal signals rail transport no longer stopgap measure" (January 9) Available at: http://business.financialpost.com/2013/01/09/cp-rail-oil-shipment-deal-signals-rail-transport-no-longer-stopgap-measure/?_isa=9166-8b42

³ US Government Accountability Office. 2013. Rail Safety: Improved Human Capital Planning Could Address Emerging Safety Oversight Challenges. Report to Congressional Requesters. Available at: <https://www.hsdl.org/?search&collection=limited&fct=850=date&submitted=Search&tabsection=GAO+Reports+%26+Testimony>

railroads is vested solely in the FRA, and any policy action by state or local government affecting railroad operations, practices and infrastructure is preempted.

The risks lie in three arenas:

1. **Landside risks** along train routes, at crossings, and in highly populated as well as rural areas.
2. **Waterside risks** as trains travel close to fragile bodies of water such as the Great Lakes and Hudson River.
3. **Transshipment site risks** in urban centers where crude oil is stored in tanks or in parked trains for off-loading at refineries or onto barges for shipment to refineries.

What are these Risks?

One set of risks is *infrastructural*, involving the safety of railroad equipment, crossings and track. These include:

1. **The safety and reliability of the equipment being used.** Based on the investigation of the Lac Megantic catastrophe, oil shippers have been using tank cars that are not safe to carry volatile crude. The U.S. Department of Transportation has issued a safety warning to the public, emergency responders and shippers about the high volatility (and low flash point) of crude from the Bakken Shale. Much of the oil shipped in the U.S. and Canada uses DOT-111 tankers. For many years preceding the oil shipment boom, the NTSB issued warnings about these tank cars because their metal skin is easily punctured. Yet, newer tank cars that are built to ship volatile crude remain insufficiently available.
2. **The scale of the trains and effect on track condition.** The sheer volume of hazardous substance carried by these unit trains creates a distinctive magnitude of risk; each tank car has a capacity of 34,500 gallons, and each train is 80-120 tankers long. Poorly maintained track and trestles have been implicated in several recent derailments, raising questions about their maintenance. Accident investigators indicate that the actual weight of tank cars may have exceeded the legal limit. They point out that heavy trains deteriorate track more quickly (especially under weather conditions in North Dakota and the Great Lakes region generally) compounding the effects on track condition from increased traffic in other export commodities.
3. **Unsafe crossings.** FRA data assures us that accidents and deaths per-mile-traveled decreased through 2009 (before the current surge in oil trains and derailments). Accidents and deaths at crossings, however, remain high. As mile long oil trains take up to 45 minutes to pass, impatience and crossing trespass incidents are already likely. They may become more frequent if proposed safety measures further slow train speeds in populated areas.

In addition, there are *contextual risks*, occasioned by the proximity of vulnerable populations, lack of access to timely emergency services, insufficient safety and security at transshipment sites, and the like:

- 1) **Routing through highly populated areas.** Oil trains frequently traverse major cities such as Toronto, Chicago, St. Paul/Minneapolis, and Albany. At transshipment sites such as Albany, lines of tank cars may sit in minimally secured locations near office buildings, housing, or highways for up to 20 hours before the crude oil is unloaded. Railroads have interconnect agreements that allow them to route trains around populated areas, but re-routing is unlikely because of the multiple criteria (such as track or crossing condition) used to make routing decisions.

- 2) **Disparate impacts.** In some places such as in Albany, environmental, safety and security risks are disproportionately borne by lower-income neighborhoods near the parked, unsecured, trains.
- 3) **Train routes proximate to critical waterways and environments.** The federal preemption of railroad routing and safety regulation means that critical water resources, such as the Hudson River and The Great Lakes, are exposed to risks of contamination without an environmental impact analysis.
- 4) **Unclear best practice and financial responsibility for accident cleanup.** Railroad companies are responsible for paying for and coordinating cleanup of an accident site, and remediation of environmental and property damage. Activities are carried out by HazMat contractors hired by the railroad companies, but accountability for the quality of their work remains uncertain. While railroads carry commercial insurance, they acknowledge that the insurance available is not adequate to cover the worst accidents. The railroad responsible for the Lac Megantic disaster filed for bankruptcy, transferring millions of dollars in liability to the public sector.
- 5) **Security risks.** Because of the vulnerability of oil trains routed through major population centers, there are risks of *purposeful* action to cause harm.

While not exhaustive, this list exemplifies the risks that must be addressed by federal, state and local policymakers to minimally satisfy public concerns.

Next Steps

State officials are beginning to take notice of the significant risks associated with the transport of crude oil. In New York, crude oil trains move through 23 upstate counties and down the Hudson River through highly populated areas. Governor Andrew Cuomo recently issued an executive order calling for a review of policies related to oil transport through the State. Despite the "railroad exception", there are strategies that local and state governments can use.

Governments can calculate and publicize the costs associated with providing safety and emergency response services to the shippers and railroads -- essentially unfunded mandates imposed on local and state government. These costs should be borne by the shippers and carriers.

States can examine whether commercial insurance carried by the railroads and the ports is sufficient to cover potential liabilities from accidents. If all costs are not covered by private insurance, they constitute a redistribution of risk and liability to the public sector. If states *insist* that all costs must be covered, shippers and carriers will have to take action to align risks with commercial insurance requirements.

Local governments can carefully scrutinize facilities for carriers and shippers that require local planning board approval. These facilities and the increased rail traffic they support may entail public costs as well as environmental, safety and security impacts.

Finally, states can *insist* on a comprehensive risk assessment at the federal level to examine both infrastructural and contextual risks arising from crude oil transportation.

Further Reading

<http://www.oj.com/articles/print/volume-111/issue-8/transportation/rail-emerging-as-long-term-north-american.html>

<http://news.nationalgeographic.com/news/energy/2012/11/121130-north-dakota-oil-trains/>



Cornell University

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Cybercrime Newsletter

HEDDA LITWIN, CYBERSPACE LAW CHIEF COUNSEL & EDITOR

MAY & JUNE 2014

The Cybercrime Newsletter is a publication of the National Attorneys General Training and Research Institute (NAGTRI). It is written and edited by Hedda Litwin, NAAG Cyberspace Law Chief Counsel (hlitwin@naag.org; 202-326-6022).

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In the interest of making this newsletter as useful a tool as possible for you, we ask that you keep us informed of your efforts. Additionally, we would like to feature articles written by you. Please contact us with information, proposed articles and comments about this newsletter. Thank you.

TRAINING ON MOBILE DEVICES

The National Association of Attorneys General Training and Research Institute (NAGTRI) **Mobile Devices: Evidentiary Considerations for Prosecutors** training will take place in Washington, D.C. on June 9-10, 2014 at the Marriott Georgetown. **Through funding provided by the Mission Foundation, NAGTRI will provide scholarships to Assistant Attorneys General to attend the training.**

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This 1.5 day course will provide attendees with an understanding of more complex evidentiary issues arising when mobile devices are an element in their cases. It is designed for attorneys with a working knowledge of search and seizure of evidence and who have handled cases involving digital evidence. Topics planned include mobile phone searches and considerations, mobile device data recovery, Fourth Amendment considerations and special concerns in searches of juveniles' cell phones.

Please note this is an advanced course with limited attendance, so offices are not guaranteed a slot at the training. Applicants will be accepted on a first come, first serve basis, with priority given to wide state representation and no previous attendance at an advanced class.

For additional information, please contact Hedda Litwin, NAGTRI Program Counsel and NAAG Cyberspace Law Chief Counsel, at hlitwin@naag.org or (202) 326-6022 or Noreen Leahy, NAGTRI Program Specialist, at nleahy@naag.org or (202) 326-6252.

SUPREME COURT LIMITS RESTITUTION FOR CHILD PORN VICTIMS

On April 23, 2014, the U.S. Supreme Court, in an opinion by Justice Anthony Kennedy, ruled 5-4 in *Paroline v. United States*, 12-8561, that a victim of child pornography may be entitled to restitution under 18 USC § 2259, but only to the extent the defendant's offense proximately caused the victim's losses. Below is a summary of that ruling written by Dan Schweitzer, NAAG Supreme Court Counsel.

A provision of the Violence Against Women Act of 1994 requires district courts to order persons guilty of possessing child pornography "to pay the victim . . . the full amount of the victim's losses as determined by the court." 18 U.S.C. §2259. A five-Justice majority held that where the defendant was one of thousands of individuals who possessed and viewed the images, a federal district court "should order restitution in an amount that comports with the defendant's relative role in the causal process that underlies the victim's general losses." Petitioner Doyle Paroline pleaded guilty to possessing between 150 and 300 images of child pornography, including two images that depicted the sexual exploitation of a young girl, now a young woman, referred to in this litigation by the pseudonym "Amy." In addition to damages suffered at the hands of her abuser, Amy suffered medical, psychological and economic damages as an adult from her knowledge of the widespread distribution of images depicting her abuse. Amy sought restitution under §2259, asking for \$3.4 million (nearly \$3 million in lost income and about \$500,000 in future treatment and counseling costs). The district court applied a "but-for" theory of proximate causation, found the government failed to meet its burden to establish losses proximately caused by Paroline and denied any restitution. In an en banc decision, the Fifth Circuit reversed, holding §2259 does not limit restitution to losses proximately caused by the defendant. Rather, each defendant who possesses the images is liable

for the victim's entire losses, even though other offenders have contributed to those losses by possessing the images. In an opinion by Justice Kennedy, the Court vacated and remanded.

The Court first addressed "whether §2259 limits restitution to those losses proximately caused by the defendant's offense conduct." The Court held that it does. Section 2259 enumerates six categories of covered losses and a catchall category for "any other losses suffered by the victim as a proximate result of the offense." The Court concluded common sense and the rules of statutory construction dictate the proximate-cause requirement in the final phrase applies to the five previously enumerated categories of loss. The Court then turned to "the more difficult question" of how to apply the statute's causation requirements to Paroline. "The difficulty is in determining the 'full amount' of [Amy's] general losses . . . that are the proximate result of the offense conduct of a particular defendant who is one of thousands who have possessed and will in the future possess the victim's images but who has no other connection to the victim." In a case like this, ordinary "but-for causation cannot be" shown because "it cannot be shown that [Amy's] trauma and attendant losses would have been any different but for Paroline's offense." The Court concluded, however, that "tort law teaches alternative and less demanding causal standards are necessary in certain circumstances to vindicate the law's purposes. It would be anomalous to turn away a person harmed by the combined act of many wrongdoers simply because none of those wrongdoers alone caused the harm."

On the other hand, the Court found "[t]hese alternative causal standards . . . can be taken too far," by treating each possessor as if he had in fact caused all of Amy's trauma and attendant losses. "Congress gave no indication that it intended its statute to be applied in the expansive manner the victim suggests," under which someone whose contributions to the victim's harms were "very minor" is deemed to have caused all the victim's harms. Amy

suggested someone like Paroline can be required to pay the full amount and then seek contribution from other offenders. The Court observed, however, there is no “clear statutory basis for a right to contribution in these circumstances.” Further, requiring someone in Paroline’s position to pay the full amount “might raise questions under the Excessive Fines Clause of the Eighth Amendment.”

That still left the question of precisely how much Paroline must pay in restitution. The Court concluded that “[i]n this special context,” the district court “should order restitution in an amount that comports with the defendant’s relative role in the causal process that underlies the victim’s general losses. The amount would not be severe in a case like this,” but it “would not be a token or nominal amount.” The district court “must assess as best it can from available evidence the significance of the individual defendant’s conduct in light of the broader causal process that produced the victim’s losses.” Although there is no rigid formula for determining this amount, the Court set forth a number of “rough guideposts” for district courts, including the number of defendants found to have contributed to the victim’s general losses; predictions of the number of offenders likely to be convicted in the future for crimes contributing to the losses; an estimate of the broader number of offenders involved, “most of whom will, of course, never be caught or convicted”; whether images of the victim were distributed by the defendant; whether the defendant was involved in “the initial production of the images”; and the number of images of the victim the defendant possessed.

Chief Justice Roberts filed a dissenting opinion, which Justices Scalia and Thomas joined. Their dissent concluded the statute does not permit *any* restitution here because “it is not possible to do anything more than pick an arbitrary number” for the “amount of losses sustained by” Amy as a result of Paroline’s crime — “[a]nd arbitrary is not good enough for the criminal law.” Chief Justice Roberts agreed with the majority that “if Paroline *actually*

caused those losses, he also proximately caused them.” But the statute specifies that the losses be sustained “‘as a result of the offense’ — that is, his offense.” “Determining what amount the statute does allow — the amount of Amy’s losses Paroline’s offense caused — is the real difficulty of this case.” Chief Justice Roberts concluded “Amy’s injury is indivisible, which means Paroline’s particular share of her losses is unknowable. And yet it is proof of Paroline’s particular share that the statute requires.” Congress therefore “effectively precluded restitution in most cases involving possession or distribution of child pornography.” Although Chief Justice Roberts agreed “awarding Amy no restitution would be contrary to Congress’s remedial and penological purposes,” he reluctantly found “[t]he statute as written allows no recovery; we ought to say so, and give Congress a chance to fix it.”

Justice Sotomayor separately dissented, stating the statute mandates restitution be awarded for (in the words of §2259) the “full amount of the victim’s losses.” Justice Sotomayor maintained that requiring mandatory restitution is inconsistent with a “but-for” causation requirement, and therefore Congress must have intended to incorporate aggregate causation into §2259. In her view, because §2259 (b)(1) requires restitution for the “full amount of the victim’s losses,” each defendant is liable for the full amount of the loss. She explained the potential for unfairness is addressed by the district court’s statutory authority to schedule an appropriate payment schedule.

For a full text of **PAROLINE v. UNITED STATES** (Docket No. 12-8561), please see the link below: http://www.supremecourt.gov/opinions/13pdf/12-8561_7758.pdf.

ATTORNEYS GENERAL FIGHTING CYBER CRIMES

ALABAMA

Attorney General Luther Strange joined Jefferson County Sheriff Mike Hale to announce a final decision in a case involving electronic bingo in which the court ordered the machines destroyed and the monies forfeited pursuant to state law. Law enforcement officers had seized more than 500 illegal slot machines and gambling devices, as well as \$69,240, from the Anchor Club casino. The decision was the culmination of a joint law enforcement effort by the Sheriff's Office and Attorney General Strange's Office.

ARKANSAS

Attorney General Dustin McDaniel's Cyber Crimes Unit agents executed a search warrant at Christopher Boyd's residence, arresting Boyd on 30 counts of possession of child pornography, a Class C felony. Investigators seized four computers and other electronic evidence for analysis at the Unit's Forensic Lab. Special Agent Chad Meli of Attorney General McDaniel's Office began investigating Boyd after suspecting child pornography was being possessed at Boyd's residence. The U.S. Marshals Service and the Little Rock Police Department assisted in the investigation and arrest, with the police department also arresting Boyd for failure to register as a sex offender.

DELAWARE

Attorney General Beau Biden announced the arrest of Stephen Parsons pursuant to an investigation by the Delaware Child Predator Task Force. The Task Force and the State Police executed a search warrant at a residence, with Parsons taken into custody on 25 counts of Dealing in Child Pornography. Multiple computers and other digital media were seized and taken to the State Police High Technology

Crimes Unit for forensic analysis. A forensic preview revealed a seized computer contained multiple images of child pornography.

ILLINOIS

Attorney General Lisa Madigan announced the state Senate had passed Senate Bill 3405, legislation crafted by her office and sponsored by Senator Daniel Bliss, to crack down on patent trolls acquiring patents to profit from frivolous infringement claims. The bill would ban patent demand letters 1) containing false or deceptive information; 2) sent by individuals without the right to license or enforce a patent; 3) falsely threatening litigation if a fee is not paid; and failing to identify the individual asserting the patent and failing to identify the alleged infringement.

LOUISIANA

Attorney General Buddy Caldwell's Cyber Crimes Unit investigators executed a search warrant at Giles Thibodeaux, Jr.'s residence, and Thibodeaux was arrested and charged with the production of child pornography, computer-aided solicitation of a minor, indecent behavior with juveniles, oral sexual battery and simple rape. The arrest resulted from a joint investigation involving Attorney General Caldwell's Cyber Crime and Fugitive Apprehension Units; the State Police; Homeland Security Investigations; the FBI; the St. Landry Parish, Ascension Parish, Lafayette Parish, Jefferson Parish and Livingston Parish Sheriff's Offices; and the U.S. Secret Service.

MASSACHUSETTS

Attorney General Martha Coakley's Office hosted the third annual Cybercrime Conference on April 28-30. The conference featured a separate track of instruction for prosecutors, investigators and digital forensic examiners. Each track had multiple breakout sessions led by cybercrime experts.

MISSISSIPPI

Attorney General Jim Hood launched an online safety awareness campaign targeting state students. Attorney General Hood had reached out to the state Department of Education and to all state colleges and universities seeking assistance in getting the word out directly to the students. The campaign begins with the dissemination of two posters created for the campaign by Attorney General Hood's Office to participating schools. The posters can also be viewed, downloaded and printed from Attorney General Hood's website, in addition to a PSA provided to campus television and radio stations. Attorney General Hood is also organizing a press conference specifically for student reporters.

MONTANA

Attorney General Tim Fox submitted written testimony at the U.S. House Judiciary Committee hearing on Internet sales taxes. His testimony opposes the Marketplace Fairness Act and similar legislation requiring state businesses to collect sales taxes from out-of-state purchasers.

NEW JERSEY

Acting Attorney General John Hoffman's Division of Criminal Justice obtained a state grand jury indictment charging Jeanette Rodriguez, a former unemployment insurance clerk for the State Department of Labor and Workforce Development, with stealing \$21,055 in unemployment benefits by using her access to the department's computer system to redirect benefits from six different claims to her own bank account. Rodriguez is charged with official misconduct (2nd degree), computer theft (2nd degree) and theft by deception (3rd degree). The charges resulted from an investigation by the state Department of Labor-Office of Internal Audit and the Division's Specialized Crimes Bureau. The second degree charges carry a sentence of five to 10 years in state prison, including five years of parole ineligibility, and a \$150,000 fine. The third-degree charge

carries a sentence of three to five years in state prison, including two years of parole ineligibility, and a \$15,000 fine.

NEW YORK

Attorney General Eric Schneiderman's Office entered an agreement with GrubHub Inc., an Internet food delivery service created from the merger of GrubHub Inc. and Seamless North America LLC, requiring GrubHub to take steps to ensure the tips it collects from customers who order from the company's website will be distributed in full to the workers for whom the tips were intended. An investigation by Attorney General Schneiderman's Labor Bureau found Seamless charged a fee to its restaurant partners based on a percentage of food and drink, taxes and tips and returned the remainder to the restaurants. State law prohibits an employer from retaining a portion of an employee's tips. The agreement requires all future GrubHub contracts to use a fee calculation excluding tips, and GrubHub must make efforts to transition old contracts to this method. GrubHub must also notify partners of their labor law obligations, including a notice on invoices stating tips are the property of the delivery workers who earned them. The case was handled by Assistant Attorney General Haeya Yim, Section Chief Andrew Elmore and Bureau Chief Terri Gerstein, all of the Bureau.

PENNSYLVANIA

Attorney General Kathleen Kane's Child Predator Section agents arrested Wilhelm Justiniano on accusations he posted an online advertisement for sex and then traveled to meet who he believed was a 14-year-old girl. According to the criminal complaint, Justiniano used craigslist to post a sexually graphic advertisement soliciting sex from "females of any age." Undercover agents posing as a 14-year-old girl responded and arrested Justiniano when he arrived at a predetermined meeting location. He is charged with two counts of unlawful contact with a minor and

one count of criminal use of a communication facility. The Lower Paxton Police Department and the U.S. Postal Inspectors Service assisted in the investigation. The case will be prosecuted by Senior Deputy Attorney General Christopher Jones of the Section.

RHODE ISLAND

Attorney General Peter Kilmartin authored legislation requiring entities experiencing a data breach to provide one year of credit monitoring at no cost to state residents who are victims of the breach. The legislation also requires those entities to provide affected consumers with the toll-free numbers and addresses of consumer reporting agencies and the Federal Trade Commission, in addition to information about fraud alerts and security freezes. The legislation, H7519, has been introduced by Representative Brian Kennedy.

SOUTH CAROLINA

Attorney General Alan Wilson's Office hosted a special town hall meeting for parents and children as part of their Internet Crimes Against Children (ICAC) "Stay Safe Online" Week. Attorney General Wilson gave opening remarks, followed by Joe Laramie, former commander of Missouri's ICAC Task Force and an online safety expert. The meeting was emceed by WIS-TV anchor Meaghan Norman and concluded with a panel discussion.

VERMONT

Attorney General William Sorrell announced the State's case against MPHJ Technologies has been remanded to state court. In the case Vermont alleges MPHJ, claiming to have patents on scanning documents and sending them by email, sent unfair and deceptive demand letters to small businesses and nonprofits in the State.

VIRGINIA

Attorney General Mark Herring announced the state General Assembly passed compromise legislation crafted by Attorney General Herring's Office to protect state businesses from patent trolling. The bills, SB150 and HB375, establish criteria for determining a patent infringement claim is being made in bad faith, including issuing a letter claiming infringement and including false statements, failing to identify the patent holder, failing to specify the basis for the infringement, demanding an unreasonable license fee or reasserting infringement claims previously declared baseless by a court. The bill empowers the Attorney General to investigate cases of patent trolling and allows the Attorney General and Commonwealth's Attorneys to bring actions to recover civil penalties.

WASHINGTON

Attorney General Bob Ferguson's Office resolved allegations Colorado-based DISH network, which sells and distributes digital entertainment programming via satellite to subscribers, violated the Consumer Protection Act when it began charging state consumers an unlawful monthly surcharge, described as a "WA State Surcharge" ranging from \$1.00 to \$1.09. DISH has agreed to refund approximately \$2 million to state consumers; provide additional benefits to consumers; and pay \$569,000 to Attorney General Ferguson's Office in attorney's fees and costs.

WISCONSIN

Attorney General J.B. Van Hollen's Division of Criminal Investigation Special Agents arrested and charged Aaron Bouzek with possession of child pornography. The agents, with assistance from the Lancaster Police Department, responded to a citizen tip, and their consent search transitioned into a search warrant. During the search, an on-scene analyst identified a child pornography image on Bouzek's cellular phone.

CYBER NEWS BRIEFS

WIRELESS COS. TO PROVIDE FREE ANTI-THEFT TOOLS

CTIA-The Wireless Association announced a "Smartphone Anti-Theft Voluntary Commitment," whereby the largest mobile device manufacturers and carriers have agreed to provide a free anti-theft preloaded or downloadable anti-theft tool on smartphones sold in the U.S. after July 2015. The companies agreeing to the commitment include Apple, Samsung Electronics, Verizon Wireless, AT&T, U.S. Cellular, Sprint Corp. and T-Mobile US Inc. Owners' options will incorporate remotely removing a smartphone's data and preventing reactivation if a phone is stolen or lost. According to the Federal Communications Commission, one in three robberies in the U.S. involves phone theft.

THREAT REPORT FINDS BLACK MARKET FOR HACKERS

The cyber attacks leading to the massive data breach at Target last year were fueled by a black market industry catering to hackers and identity thieves, according to a quarterly threat report issued by computer security company McAfee Labs. The report noted that industry enabled the thieves to buy custom malware as well as quickly sell the credit card numbers stolen in the breach. McAfee also identified the following rising threats: 1) mobile malware; 2) ransom-ware (malicious attacks against company systems demanding ransoms to stop the attacks); and 3) suspicious URLs. The report also questioned the method web service providers use to authenticate trusted third parties, noting they can no longer rely on certificates as a sign on security on third party links and software. The report can be accessed at <http://www.mcafee.com/us/resources/reports/rp-quarterly-threat-q4-2013.pdf>.

DRAFT MOBILE DEVICE SECURITY GUIDE PUBLISHED

The National Cybersecurity Center of Excellence, part of the National Institute of Standards and Technology, published a draft outlining how businesses and other organizations can secure mobile devices used for work. The draft proposes a mobile device management system, including the ability to remotely wipe sensitive data, verify the identity of the device's user, update software and monitor unusual activity. The device security capabilities should include full disk encryption, and the app security features should include authentication for individual apps. The draft may be accessed at http://csrc.nist.gov/nccoe/Building-Blocks/NCCoE_Mobile_Device_Security_Building_Block_Draft_20140221.pdf.

SURVEY: FINANCIAL SERVICES HARDEST HIT BY CYBERCRIME

Thirty-nine percent of financial services companies suffering from economic crime in 2013 were victims of cybercrime, compared to 17 percent in other industries, according to the Global Economic Crime 2014 Survey by PricewaterhouseCoopers. The survey, based on responses from 1,330 companies in 79 countries, showed cybercrime was the second most common type of fraud reported by financial firms, with theft being the most common. The survey further found external fraudsters to be responsible for most of the economic crime. The survey can be accessed at <http://pwc.com/gx/en/economic-crime-survey/>.

And see...

The Federal Financial Institutions Examination Council, an interagency group including the Federal Reserve and the Federal Deposit Insurance Corporation, advised banks to upgrade their systems as

soon as possible if they are vulnerable to the recently uncovered "Heartbleed" bug. The group further advised banks to set up temporary patches for any systems using the web encryption program known as OpenSSL. Group researchers revealed they found evidence of hackers scanning the Internet in search of web servers running OpenSSL. The group noted banks should ask customers and administrators to change their passwords after patching their systems.

DHS TO PROVIDE FREE SECURITY SERVICES TO STATES

The U.S. Department of Homeland Security (DHS) began work on a cooperative effort with the Center for Internet Security Multi-State Information Sharing and Analysis Center (MS-ISAC) to furnish managed security services to states and territories in conjunction with their adoption of the National Institute for Science and Technology Cybersecurity Framework. As part of this effort, MS-ISAC will provide Managed Security Services, including intrusion detection, intrusion prevention, netflow analysis and firewall monitoring, to states and territories free of charge. DHS and MS-ISAC will seek feedback and requirements from the states and territories and tailor technical assistance and best practice documents to meet their needs.

U.S. ISSUES ONLINE EDUCATION SERVICES GUIDANCE

The U.S. Department of Education issued guidance on the requirements and recommended practices for school management of online education services directly involving students or their parents. The guidelines provide specific examples of federal protections for personal details, such as contact information, contained in a student's record. Under the school outsourcing exception, online educational services cannot use protected student infor-

mation they obtain for any other purpose other than that which was disclosed. In the new guidance, the Department recommends school districts establish direct control over the collection and use of students' personal details through contracts with service providers. It also recommends districts avoid signing agreements allowing online education programs to alter their terms of service unilaterally. The guidelines can be accessed at <http://ptac.ed.gov/document/protecting-student-privacy-while-using-online-educational-services>.

FREE IPAD CASE BRIEF APP AVAILABLE

An iPad app automating the creation of case briefs has been created by a third-year law student at the University of Michigan Law School and is available for free. The app allows a user to annotate PDFs of court decisions using nine customizable highlight colors, one for each facet of a case. The colors can also be edited and given user-designated labels. When the annotation is finished, tapping the "Brief" button will create a case brief, with highlights organized in bullet points under the labels for each color. There are no iPhone or Android versions, and additional features require a yearly subscription. The app can be downloaded at <http://thebriefcaseapp.com/>.

And see...

NASA has to date released 1,000 apps to the public in an effort to make more widespread use of its software and aggregate it into one catalogue. Although some apps in the catalogue are restricted by their intellectual property rights, many others are available to the general public. The apps cover a variety of applications, including structural analysis, aeronautics, image processing and project management. The apps are available at <http://technology.nasa.gov>.