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To: Chair Gelser, Senate Committee for Human Services  
From: ODAA, through Brendan Murphy, Co-chair Marion County Child Abuse MDT,  
Child Abuse Trial Team Supervisor, DDA, Marion County  
Re: SB 819

Date: Friday, March 10, 2017

Chair Gelser, Members of the Committee:

I applaud this Committee's consistent discussions regarding a multidisciplinary approach to child safety. Agency coordination through local MDTs is the only way to leverage current resources into safer children. SB 819 recognizes the value of this MDT approach, and incorporates some of those benefits into DHS' Critical Incident Response Team (CIRT).

Nevertheless, information shared at the wrong time can have the exact opposite effect on child safety. For example, **when a child is killed by abuse or neglect, review and reporting of how systems failed must defer to an on-going, open criminal investigation or prosecution.** Therefore, ODAA offers the following amendments (see Attachment) to help guarantee that SB 819 results in safer kids.

Thematically, we suggest the following changes:

- That local district attorneys or law enforcement representatives- not DHS- are the appropriate party to determine whether releasing a CIRT report will negatively impact a criminal investigation or prosecution.
- CIRTs deserve thorough information. However, DHS must coordinate with law enforcement when interviewing "collateral witnesses." DHS' CIRT process, for all its benefits, does not have the fidelity of a criminal case as its main priority.
- "Police Investigative Data" isn't defined, and mandating DHS to share this sensitive information- even to a confidential CIRT- could negatively impact a criminal case.
- Law enforcement involvement in a CIRT should be encouraged, but at the discretion of law enforcement.

Attached are specific suggested amendments. I am happy to answer any questions that you may have, provide more details, and continue to help work towards safer kids.

Thank you.

A handwritten signature in black ink, appearing to read 'Walter M. Beglau', is written over the 'Thank you.' text.

**ATTACHMENT: Some recommended SB 819 Amendments (pg 1/2)**

1. Sec. 2(d) Requiring a LE representative on the CIRT.

*(Recommended Fix: Strike 2(d) and add the LE presence to sec. 3, which states DHS "may include or consult with the DA or a LE representative as defined in ORS 419B.005 from the county in which (the incident occurred)...)*

2. Sec.4, regarding "police investigative data" (reports?) mandatory disclosure to all CIRT team members.

*(Recommended Fix: strike "police investigative data" from mandatory disclosure to team members.) LE should determine what information is appropriate to share to a CIRT (as it could be within 60 days for the incident)*

3. Sec.5(c): essentially requires DHS to interview collateral witnesses at the direction of CIRT members. It is a HUGE problem if DHS is interviewing potential witnesses before LE at the direction of a CIRT....

*(Recommended fix: add language in (5)(c) similar to "DHS must notify and defer to the investigating law enforcement agency prior to interview of any collateral resources, as to not impact any potential criminal investigation."*

4. Sec (5)(g)(B) requires the final report to comment on actions that DHS and LE agencies did or did not take that CIRT identifies as concerning.

*(Recommended Fix: remove LE agencies from this section- that criticism should occur at the Child Fatality Review MDT, after the conclusion of the case)*

5. Sec. 6 acknowledges the sensitivity of ongoing criminal cases but needs strengthening. Overall, this bill should allow the local district attorney (or their representative) or the investigating LE agency to make the final determination that the CIRT report will or will not compromise an ongoing investigation. DHS' interest isn't sufficiently aligned to make that final decision.

Proposed amendments to sec.6:

"(6)(a) Prior to submitting an initial report, a progress report or a final report to the department as described in section (5) of this section, the team shall **notify and consult with the local district attorney, their representative, or investigating law enforcement agency** to consider the following:

(6)(a)(A) Whether submission of the report is likely to compromise an ongoing investigation of a law enforcement agency, ~~after the team has communicated with an obtained agreement of appropriate law enforcement agency representatives and the district attorney;~~

(6)(a)(B) Whether the report can be modified so as to permit submission of the report to the department without compromising a law enforcement agency investigation; and;

(6)(a)(C) Whether, as determined by the team with the advice and consultation of the Director of Human Services, the public interest outweighs the potential consequences to a law enforcement agency as provided in ORS 192.501(3);

(6)(b) The director ~~may~~ **shall** extend the deadline for submission of an initial report, a progress report if the ~~director~~ **district attorney, their representative or law enforcement agency** determines that a delay is reasonable or if the report, even if modified will compromise a law enforcement investigation ~~and the public interest does not outweigh the potential consequences . . . .~~