



October 2023

South Dakota Network Against Family Violence and Sexual Assault Newsletter: Sexual Assault Edition

Courtroom Testimony Training: Instruction for SANEs, Prosecutors, and Advocates

SANE Courtroom Testimony: Instruction for SANEs, Prosecutors, and Advocates

Class meets virtually and in-person

Virtual: Fridays, October: 13, 20, and 27 from 9:00am – 1:00pm CST

- Session One: Overview of criminal justice system, sexual assault laws in SD, forensic exams and post assault care
- Session Two: Curriculum Vitae, defining expert witness, pre-trial preparation, qualifying the expert witness, testimonial foundations
- Session Three: Direct examination, cross examination, advanced concepts in expert testimony
- In-Person Session: Mock-Trial, In-Person Courtroom Simulation

The training is being made possible through a partnership of: Center for the Prevention of Child Maltreatment and SD Network Against Family Violence and Sexual Assault.

- In-Person Mock-Courtroom Options: (participants can select which date and location to attend)
- Friday, November 3 from 9:00am to 4:00pm in Pennington County
- Friday, November 17 from 9:00am to 4:00pm in Minnehaha County
- This training opportunity will provide SANEs an overview of the courtroom process and roles and strategies for effective testimony.

Register for any of the sessions at:

<https://usd.zoom.us/meeting/register/tJEoceCqrzMsGtX0vyi1nLooVTh6dY2enMj2>

Attorneys will gain insight into the role of SANEs and the information they can provide in the testimony process. Through the course of three virtual sessions and the opportunity to participate in an in-person courtroom simulation, participants will: receive an overview of the criminal justice system of SD and SD sexual assault laws, prepare for trial and expert qualification, learn the elements of direct and cross examination, and participate in a mock trial experience.

Trainers:



Tracey Decker: JD, Attorney Consultant, SD Network Against Family Violence and Sexual Assault



Crystal Johnson: JD, Deputy State's Attorney, Minnehaha County



Lara Roetzel: JD, State's Attorney, Pennington County



Jen Canton: MSN, RN, SANE-A, SANE-P, SANE Supervisor, Avera Health



Mike Moore: JD, State's Attorney, Beadle County

Contact Information



Tracey Dollison Decker is able to provide free legal technical assistance for victim service providers to provide civil and legal advocacy to victims of domestic and dating violence, sexual assault and stalking.

Phone:
(605)650-2894
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tracey@sdnafvsa.com

For resources and upcoming trainings, please check the South Dakota Network Against Family Violence and Sexual Assault website: sdnafvsa.com

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SD SAKI Grant Project

For several years, the South Dakota statewide Sexual Assault Taskforce discussed how to improve the process of collecting and processing sexual assault kits and improve outcomes of sexual assault cases in the state. Many discussions took place around the length of storage for kits, including where they should be stored, which resulted in new legislation. We continued to have discussions on actively trying to improve our kit processes – and many of you have been integral to these discussions.

In 2019, recognizing the need for additional changes, The Network collaborated with Beadle County State’s Attorney (Mike Moore) and a University of South Dakota researcher (Bridget Diamond-Welch) to apply for a Bureau of Justice Administration Sexual Assault Kit Initiative (SAKI) grant. Developed in response to the discovery of kit backlogs in other states, the federal SAKI project seeks to ensure states test all sexual assault kits with the most scientifically advanced DNA testing.

Under our state’s project, the SD SAKI team has been working on the following goals. First, we performed an inventory of sexual assault kits, working with all jurisdictions to ensure that all kits had been submitted for testing. This inventory showed marked improvement from a previous inventory due to legislation passed in 2016 for the process of collecting and testing kits. Second, we have been working on (still in progress) providing complete testing for older kits that were processed through a crime lab but not tested for DNA due to a lack of bodily fluids (called partially tested). Our team has evaluated the current kit tracking system and made recommendations to move towards an electronic tracking system that would accurately track the kit through the life of the case and give survivors the ability to know the status of their kits. Third, Mike Moore provides technical assistance to prosecutors on sexual assault cases. Finally, we are working on a research project that will allow us to know more about sexual

assault in South Dakota. This research project is currently working with 10 counties to examine what happens to the sexual assault cases that are referred to prosecution. Additionally, we are working with the Unified Judicial System to analyze all sexual assault cases in the state to understand our overall state rates of conviction. In the coming months, the SAKI team will be updating you with continued information on analyzing kits, training, and what we are discovering through our research project. For questions or to request training, please contact:

- Technical Assistance: Mike Moore at mmoore@bcsa.us.
- General grant questions: Raina Boyum, project coordinator, raina@sdnafvsa.com.
- Research questions: Bridget Diamond-Welch at bridget.k.diamond-welch@usd.edu.

Contact Information

Mike Moore is able to provide prosecutor TA on sexual assault through the South Dakota Sexual Assault Kit Initiative.

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Spotlight: Lara Roetzel

Pennington County State's Attorney



Biggest Challenges of becoming a State's Attorney in Pennington County?

Balancing the priorities of community safety, caseload, staffing, retention, recruitment, media inquiries, legislation development, and training is challenging. Managing an \$8 million budget and 68 employees is a big job. But the biggest challenge is being able to shut it off at night and focus on my other job – being a wife, mother, sister, daughter, and friend. What I do is important, but it cannot be all I am.

What can we do better in Sexual Assault prosecutions?

Don't be afraid to "lose." These cases are hard. Chances are you will get as many not guilty verdicts as you do guilty. Don't make trial decisions based on those odds. Do you believe your survivor? If yes, and defense has rejected a fair offer – send it! People (including your

victim) will respect you for trying and over time, as your skills grow, those odds will swing in your favor. I have talked to many survivors that felt grateful and stronger after a jury trial experience, regardless of its outcome. Sexual Assault trials are won in voir dire and motion practice. Get good at both. Don't be afraid to ask for help. There are fantastic prosecutors in this state who would love to talk to you about your case and coach you through any area or skill. And here is a secret, the "fantastic" ones call each other for help all the time. That's how they got to be (and stay) "fantastic."

How have Sexual Assault kits impacted your cases?

I have always been a SAK fan, but became a passionate advocate for Sexual Assault Nurse Examiners (SANEs) and Sexual Assault kits (SAKs) after trying a case (State v. Robert Horse- currently on appeal to the SD Supreme Court) in which a convicted murderer, recently out on parole, picked up a 14 year old girl in north Rapid City, got her drunk and high and raped her. The jury might never have believed her but for the forensic evidence in that case. She fit into almost every rape stereotype. She was on the wrong side of town, she got into the car willingly, she voluntarily drank and smoked with this much older man - to the point of black out. She couldn't remember much of what happened to her. She awoke in a Dairy Queen parking lot. She felt "funny down there" but didn't report anything until she was taken to juvenile detention for assaulting her stepdad at Summer Nights. In response to a Prison Rape Elimination Act (PREA) question, she said she "might" have been assaulted and agreed to go to the hospital. This was days after her assault. The SANE nurse and rape kit corroborated her vague in-and-out recollection of the night and the sensations she felt afterward. I hate that she might not have been believed without that evidence, but winning the case would've been so much more difficult without it. P.S. Jurors love nurses and jurors love forensic evidence.

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Best day as a prosecutor?

Wow, so many good days. I'm going to go with verdict day in State v. Guzman. April 15, 2021. After his first trial resulted in a hung jury, Guzman was convicted of three counts of first degree rape and one count of sexual contact. We had four testifying child victims (one a 404(b) victim). He was sentenced to three consecutive life sentences plus fifteen years. I had never had to try a case twice and I don't recommend it as a fun thing to do. We picked the jury in the Central State's Fairgrounds Arena, with dirt on the floor and the smell of manure all around us. A bird even pooped on defense counsel's table during voir dire. If I write a book, this case will be the opening chapter. I have been blessed with more good days than bad, doing what has got to be the best job on the planet – fighting for justice!

Recap of Legislation Changes

This year the South Dakota Legislature passed two bills that will have a strong impact on rape prosecutions in the state. Senate Bill 91 adds a subsection of rape to SDCL 22-22-1 that says, "Rape is an act of sexual penetration accomplished with any person...without the victim's consent and perpetrator knows or reasonably should know the victim is not consenting." This violation is a Class 3 Felony. This is significant because prosecutors will no longer have to prove force, coercion, or fear of great bodily harm if a victim freezes and there is no violent struggle or other force. Senate Bill 90 defines consent as "a person's positive cooperation in an act or attitude pursuant to the person's exercise of free will." This bill also defines force, mental incapacity, and physical incapacity for the first time in South Dakota. These changes are a positive step forward in achieving justice for many sexual assault survivors in the state!

Upcoming training on building a Coordinated Community Response

Please join us on Wednesday, November 8th from 10:30am-noon CT for a virtual Coordinated Community Response training with The Center for Justice Innovation and National Crime Victim Law Institute. They are the National Training and Technical Assistance providers for OVW grantees seeking to enhance their coordinated community response. During this training we will take a look at creating a CCR, cultivating relationships and look at how a CCR can support and enhance the work you do.

Registration information is available on our Network website, sdnafvsa.com or contact Raina@sdnafvsa.com with questions.

Trainers:

- Rebecca Thomforde Hauser, Senior Director of Community Accountability and Engagement for Gender and Family Justice Programs at the Center for Justice Innovation in New York, NY.
- Julieanna Elegant, JD, MA, Director of Strategic Outreach and Partnerships

Register via the QR code below or at this link here:

<https://bit.ly/3RHTxev>





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Tracey's Legal Pad

Attorney Consultant & Advisor from SD Network Against FV & SA

Tracey Dollison Decker is a new employee with The Network, hired as an Attorney Consultant and Advisor. Tracey has nearly two decades of experience as a violent crime prosecutor in Pennington County, which included domestic violence, sexual assault, child abuse and homicide. The Network has brought Tracey on board under the Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Assault and Stalking Grant Program. Tracey will develop the training and technical assistance for SANE/SAFEs in South Dakota. SANE/SAFEs will receive training and

technical assistance to understand the criminal justice system and feel comfortable testifying in court. This can include one-on-one training and assistance.

Other projects that Tracey will work on include developing and presenting comprehensive statewide training on Protection Orders to include training specific to each of South Dakota's 66 counties and nine sovereign nations. Additionally, The Network will be developing comprehensive survivor-centered and culturally relevant set of standards for victim service providers in South Dakota that will increase access

to justice for all survivors of sexual assault, domestic violence, dating violence and stalking. The overall goal of this grant program is to strengthen legal advocacy service for victims through training and technical assistance. The project will help prepare victim service professionals to provide civil and criminal legal advocacy services for victims of domestic and dating violence, sexual assault and stalking. Tracey will work with survivors and Coordinated Community Response groups to address identified barriers in the criminal justice system for victims and offer solutions for survivor-centered strategies.

Contact Information

For further information, contact the South Dakota Network Against Family Violence and Sexual Assault

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