

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



November 2024

Spotlight: River City Domestic Violence Center with Cassie Nagel

Executive Director



What is the mission and vision of the River City Domestic violence Center and how have these evolved since you became the Executive Director?

The River City Domestic Violence Center (RCDVC) provides a safe haven to victims of domestic violence, sexual assault, human trafficking and child abuse. River City exists to break the cycle of these traumas in our community through survivor empowerment, advocacy, education, awareness and social change.

While we haven't officially updated our mission or vision yet, I have spent the past 18 months working with the staff, board, and community to re-envision the role and purpose of RCDVC in our service area. My background is in macro-level prevention so that is the lens with which I lead. RCDVC's 50th anniversary is next year and it's a perfect time to celebrate what we've accomplished and consider where we want to be in the next 50 years. I believe that we've accomplished our mission of providing a safe haven and we'll continue to do

that for the communities we serve but as I look to the future, I see a couple of big opportunities for us. First is a rebrand for the organization. We need cohesive branding, and this is an opportunity to think about what our name communicates. I believe that words have power. I don't like that ever time we speak or write our name, we are speaking the problem into the universe. We should be speaking the hope and the solution. As a professional in this world and a survivor myself, I know that many of those living with domestic violence would not recognize it as such. Our name as it exists limits us in many ways and a new name will help us to usher in a new vision for the next 50 years.

Secondly, we are reimagining our vision to expand from the crisis care we currently offer. We want to see people break the cycle of violence for themselves and their families, but we know that IPV and sexual violence do not exist in a vacuum. Our personal relationships and values reflect the community and society that we exist in. This means we must move upstream and interrupt the cycle before it starts. We also need to work with the communities we serve to be part of the solution. Prevention takes all of us and healing happens in relationships. In short, we want to be the leader in creating healthy relationships dynamics in all spaces.

What do you see as your biggest role as a victim advocate?

My biggest role as a victim advocate is to share the stories of victim survivors with our community for the purpose of honoring their experience, reducing stigmas, dispelling myths, and opening a new channel for transparency and vulnerability around this topic. The stats tell us that our communities are full of survivors, many still suffering in silence. My purpose is to create a community that is safe, compassionate, and welcoming to those that have experienced the harm of IPV or SA and may continue to be impacted by that trauma. RCDVC cannot be the only route for healing and justice. We need to meet people where they are, which means we need to raise the ability of the whole community to respond to the various needs of those we serve.

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What resources does your agency provide to victims when they seek services?

We provide traditional advocacy services similar to most DV/SA advocacy centers, including emergency shelter, protection order assistance and court advocacy, economic assistance, assistance with victim compensation, crisis intervention and safety planning, SANE accompaniment, and referrals.

What makes us a bit unique is that we have an Occupational Therapist who comes on-site for a few hours a week to work directly with clients on individual issues and skill building to help them transition into more independence. We also have the Family Connections Program which offers safe exchanges and supervised visitation for families and children that are navigating custody challenges due to abuse or conflict and establishing or re-establishing relationships with family members.

What challenges have you encountered in providing services to victims of sexual assault and domestic violence, and how has your agency adapted to meet these needs?

I'm not sure that the challenges we encounter are much different from our colleagues in this work, primarily lack of resources for operations and lack of resources for victim survivors. As a rural agency covering seven counties, we have a large footprint. In order to create the professional partnerships that we depend on it requires the staff time and travel to have a real presence in those outlying communities, so folks know the resources that are available to them. With funding cuts and bare minimum staffing, that becomes more and more of a challenge.

Within our service area, we support two university campus communities and two prison communities. These are high risk areas for sexual assault and can be challenging environments to make sure that the response is focused on victim support. We have worked hard to develop position relationships with leadership at all four entities and continue to work toward shared understanding and partnership in victim response.

How does your agency ensure its services remain accessible and effective for all survivors, especially in a rural city like Yankton?

In a word, relationships. Everything we do is dependent on safe, strong, and healthy relationships. We work every day to build an intentional culture among team members built on the trauma-informed principles of safety, trustworthiness and transparency, peer support, empowerment, and intersectionality. This starts between us as co-workers and then spreads out to our relationships with clients, partners, and the community.

What have you seen as the biggest help for survivors?

Again, it boils down to safety in relationships. When a survivor can feel safe and connected with their advocate, when they believe that this agency is working for their good, when they get connected with the community in a meaningful way, this is where we see the most growth, healing, and help. Success is defined differently for every person who walks through our doors or reaches out through our crisis line, but relationships are always part of the equation. Sometimes our biggest win is simply that a victim trusted us enough to come back or call back.

Are you finding that sexual assault victims report their assault to law enforcement and what makes this difficult for victims?

Yes and no. Victims face several challenges when considering whether or not to report to law enforcement, including: fear of not being believed, shame/stigma, fear of retaliation, lack of trust in law enforcement, uncertainty of the legal process, self-blame, and concerns about privacy, especially in the rural areas we serve where most people know everyone so law enforcement may be friends or family of the victim or assailant or both. We know that a majority are going unreported.

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Our work is to support our many law enforcement partners in implementing best practices, using RCDVC as a resource, and continuing to respond to the needs of victims. I think USD is a great example. Fall of 2023 started off with six campus-related assaults. Some may view this as negative, but I think it's more likely evidence of the work that has been done to make sure students were aware of the reporting process and encouraged to report. Those reports were made immediately which triggered the campus alerts system and likely led to increased justice and improved campus safety. Panels and listening sessions were organized to hear the concerns of students and provide as much transparency as possible given ongoing investigations and victim confidentiality.



River City Domestic Violence Center Team Photos

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Fast Grant Update by Tanya Grassel-Krietlow

The Sexual Assault Forensic-Medical and Advocacy Services for Tribes OVW Initiative (FAST) ended on 9/30/24. FAST connected amazing people from various positions, all working with victims of violence, to come to the table. We met every other Monday to discuss trends and barriers identified in our communities to connect us, unite us, and learn. We shared wins, we shared obstacles, we found ways to overcome barriers and teach each other. We participated in professional development, attended listening sessions, tribal round tables, sexual violence institutes, and learned from each other through the sharing of resources.

FAST changed from a grant or an initiative to a culture. FAST became a space to learn, to heal, and to lift each other up while doing the incredibly difficult work of being an advocate, educator, enforcer, director, and survivor in the

space of violence. During the life span of FAST we had to pivot when the Keystone XL Pipeline was abandoned by TC Energy. We had to learn how to provide advocates safe spaces for healing from vicarious trauma to ensure we could retain them in their roles. We have trained staff off tribal lands, to include domestic violence shelters, East River Legal Services, Ellsworth Air Force Base, Court Appointed Special Advocates, Sexual Assault Response Teams, high schools, homeless shelters, health care clinics, and Indian Health Services. We have partnered with agencies like Native Hope to dismantle barriers for our relatives who have been impacted by Missing and Murdered Indigenous Relatives, Human Trafficking, Intimate Partner Violence and Sexual Assault. The FAST team leaned on local subject matter experts, used the wisdom of team members and the shared lived experiences for many of

the trainings held to build an effective MDT. Our victims are better served because we have a better understanding of each other's programs, their strengths, and areas that we can come alongside and support. We have many programs, both on and off tribal lands that participated. They all serve a high population of Native Americans and thus, appreciated the cultural considerations and support to do so in a good way. Our team started at 9 and grew to over 50. The Network recognized the work of FAST needed to continue so applied for funding through HHS to enhance much of what FAST started in communities and develop new goals to dismantle barriers our partners identified. Our calls will continue as they were, new members will be added to our team, and we will continue to be a space to learn from each other, reduce barriers, and improve services to victims of violence in South Dakota.

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What's Been Happening at the Network



SVI Institute: In July the Sexual Violence Institute (SVI), a statewide multi-disciplinary event, brought together law enforcement, advocates, SANES, prosecutors, mental health, educators, and many more to learn about emerging issues and effective responses to sexual violence. During this 2-day conference, over 225 participants learned from each other and from presenters about cutting-edge topics related to advocacy services, investigations, and prosecutions of violent crimes. The SVI also went into the intersectionality between sexual assault, intimate partner violence, and Missing and Murdered Indigenous Relatives.

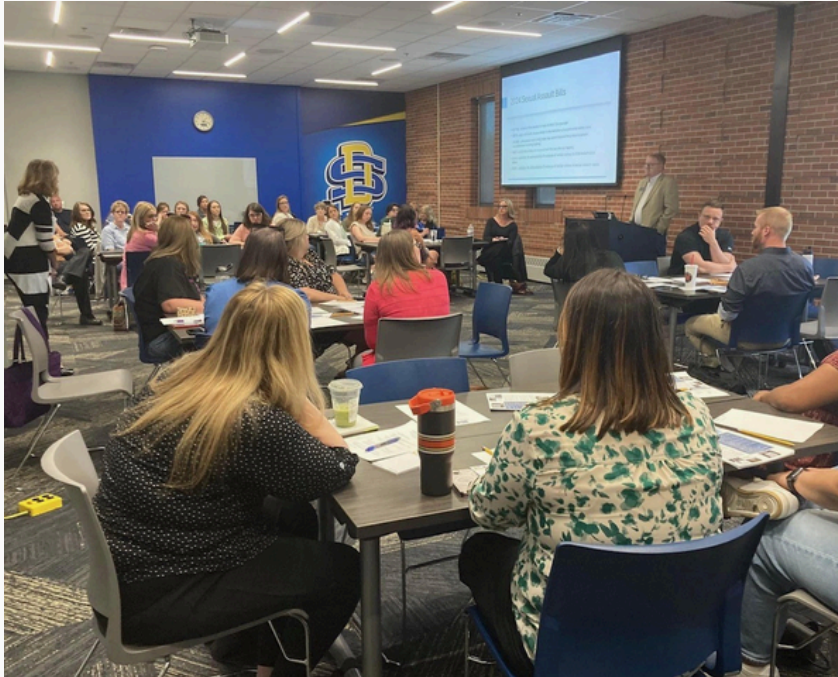


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What's Been Happening at the Network



Statewide Sexual Assault

Meetings: Over the past four months, the Network hosted two statewide sexual assault meetings to bring together professionals working in the field from around the state to discuss current challenges and gaps in the system. 43 participants attended the first meeting held in Brookings and was followed up in Sioux Falls on September 9th with 63 in attendance. Both sexual assault meetings provided an opportunity to discuss concerns with sexual assault kits, funding issues, training needs and legislation.

SART Conference: On September 10th the Network provided a SART conference with national speakers Justin Boardman and Leah Lutz. 65 participants attended the conference held in Sioux Falls including health professionals, advocates, prosecutors, law enforcement and others all working to improve their multi-disciplinary teams throughout the state. The conference focused on multi-disciplinary collaboration and the characteristics of effective Sexual Assault Response Teams including being trauma-responsive, victim centered, and offender focused.



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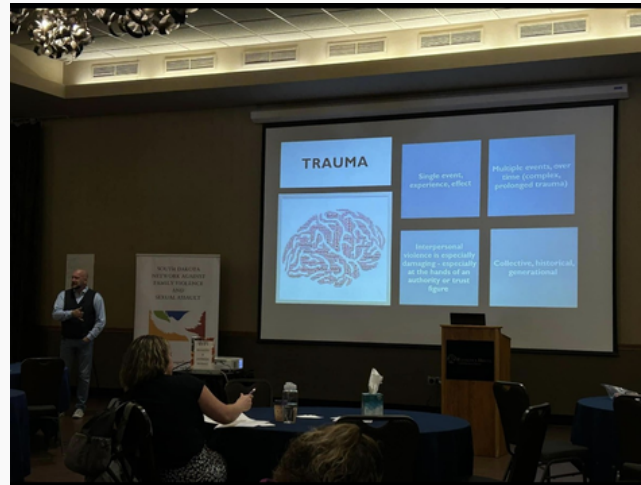


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What's Been Happening at the Network



Dr. Bridget Diamond-Welch speaking at the September statewide meeting.



Presentation during the SART conference.

Prevention Work – Brandi Storgaard

The Network is fortunate to have received private foundation funds through the South Dakota Community Foundation to continue our work in sexual assault prevention. The Network remains very involved in sexual violence work across South Dakota and have quite a few upcoming activities.

The Network has continued to partner with South Dakota State University, University of South Dakota,

Dakota State University, South Dakota School of Mines, Black Hills State University, as well as Northern State University to bring in sexual violence prevention programming and education. The South Dakota School of Mines brought in C.L. Lindsay with Sex and the Law on August 24th. On August 25th Black Hills State University also had C.L. Lindsay with Sex and the Law on campus. The University of South Dakota brought in Bonnie Shade Speaks, "Just Another Assault"

program on August 24th and ordered bystander intervention posters that will hang throughout the campus, Greek houses, and bars in the downtown Vermillion area. South Dakota State University and Dakota State University will have Catharsis productions on both campus's performing "The Hook-Up" the week of September 16th. For questions on sexual assault prevention contact Brandi Storgaard at brandi@snavsa.com.

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SANE
Sexual Assault
Nurse Examiners

SANE SUPPLEMENTAL TRAINING COURTROOM TRAINING SERIES

Save the Dates

Thursday, October 24
Thursday, November 14
Thursday, November 21
12:00pm to 1:00pm CT
Online Training Sessions

Learn More and Register:

SDCCPM.com/events/courtroom-training-series/



This training series will include:

- **October 24:** Case presentation that showcases the role and importance of SANEs in the trial process.
- **November 14:** Case presentation that showcases the role and importance of advocates in the trial process.
- **November 21:** Joint session for SANEs and advocates on the intersection of sexual assault and victims who have disabilities in the court process.

SANE Learning Collaborative

Provides support for healthcare professionals across the state in order to improve the access and delivery of services to all victims of sexual assault while avoiding further trauma and maximizing the probability of collecting and preserving the physical evidence of an assault for the potential use in the legal system.



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Spotlight on Avera's SANE Program with Jen Canton

The Avera McKennan SANE (sexual assault nurse examiner) team is a team of specially trained nurses who provide medical-forensic care to patients who experience interpersonal violence, including sexual assault, trafficking, intimate partner violence, elder abuse, and child abuse. The team is trained in caring for patients of all ages and is available 24/7/365 to respond in-person to 7 different locations in the Sioux Falls area and via telehealth to over 60 hospitals

across 5 states in the upper Midwest. The team also has a statewide hotline number where any medical facility can call and ask questions about providing post-sexual assault care. The McKennan SANE team was awarded an OVW grant to help train and support SANE nurses across the region. With this grant, the team provides a number of training opportunities including a monthly webinar series, 2 day clinical skills labs, and a

preceptorship program. This preceptorship program allows an RN who has completed the 40 hour SANE-A didactic course to spend a week with the McKennan SANE team receiving hands-on clinical training through both simulated and live patient encounters. The program also gives the student access to an online resource library, additional online trainings, and expert chart reviews.

Research Corner

SAMFE Payment Strategies: A Report on Legislative Arrangements for SAMFE Payments Prepared for South Dakota

Dr. Bridget Diamond-Welch, Quinn Daniel, Waverly Patterson, Pimthong Thongtad

<https://sdnafvsa.com/home/wp-content/uploads/2024/09/SD-SAMFE-Payment-Strategies-Policy-Paper.pdf>

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Tracey's Legal Pad

Attorney Consultant & Advisor from SD Network Against FV & SA

Intersection of disability and sexual assault

There are few sexual assault laws in South Dakota that specifically address violence perpetrated against people with disabilities. For the most part, law enforcement and prosecutors must use the same sexual assault laws for every victim. This works, most of the time, unless the very act of communicating consent to sexual contact is the crux of the matter. The right to be free from sexual assault is a right every person has over their body. The act of granting someone consent to touch your body in an intimate way is a power we all hold. Often, it is the issue of consent that prosecutors grapple with most, especially when the victim has a disability that makes traditional communication difficult.

Under SDCL 22-22-1(3) it is a class 2 felony, punishable by up to twenty-five years in prison, to sexually assault someone with a physical or mental disability that renders them incapable of consenting. This law states, "Rape is an act of sexual penetration accomplished with any person ... if the victim is incapable, because of physical or mental

incapacity, of giving consent to such an act and the perpetrator knows or reasonably should know of the victim's incapacity." This subsection of the law has been used by prosecutors to prosecute those offenders who sexually assault people with disabilities that have left them without the ability to communicate, or those that communicate and understand at the level of a child. It is not a perfect law, nor is it always easy to prove, but it is one tool in the toolbox of prosecutors. A prosecutor must ask themselves how they will prove, beyond a reasonable doubt, that there was no consent for a sexual act, especially when the accused insists that they understood there to be consent. Definitions have recently been added to give further guidance on this crucial issue.

Under the same chapter in state law "mental incapacity" is defined as a mental or developmental disease or disability that renders a person incapable of appraising the nature of the person's conduct." This same definition will be applied to SDCL 22-22-7.4 which makes it unlawful to

knowingly engage in sexual contact with another person, if the other person is sixteen years of age or older, and the other person is incapable, because of physical or mental incapacity, of consenting to the sexual contact. This is a new definition, just set forth by our legislature in 2023, and has not yet been substantially tested in the courts. How prosecutors set about proving a person is "incapable of appraising the nature of a person's conduct" due to a disability will likely be different in each case. This may mean the time consuming and expensive practice of hiring experts to evaluate victims, further subjecting victims to more scrutiny than victims without disabilities face. Likewise, "physical incapacity" is now defined as "a person's incapability of resisting because the person is unconscious, asleep, or is subject to another physical condition that prevents the person from giving consent or resisting." When the legislature defined these terms, it also finally provided a statutory definition of "consent" as "a person's positive cooperation in

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Sexual Assault Forensic Examinations in Prosecution

act or attitude pursuant to the person's exercise of free will." Now, South Dakota prosecutors are tasked with following the trail of definitions, through the sentences that define what sexual assault is in South Dakota, to hopefully bring justice to a survivor of rape or unwanted sexual contact. It remains to be seen if these definitions are an improvement toward helping disabled victims and survivors get that justice. However, it is a good thing that our legislature is taking these issues on and working toward more clarity in our laws.

There is a separate chapter in South Dakota law that specifically creates laws against physically abusing or neglecting adults with disabilities as well as elderly persons. It can be found at SDCL 22-46. This chapter makes it a crime to neglect, financially exploit or physically abuse an adult with a disability. Included in that chapter is a law that makes it a class 1 misdemeanor to emotionally or

psychologically abuse an adult with a disability, under SDCL 22-46-2. In defining "emotional abuse and psychological abuse" South Dakota's legislature included a "caretaker's willful, malicious and repeated infliction of a sexual act or the simulation of a sexual act directed at and without the consent of the elder or adult with a disability that involves nudity or is obscene." This is another law aimed at protecting the disabled population from certain types of sex acts they have not consented to participating in, but only from a person that fits the definition of "caretaker." Additionally, this chapter of South Dakota law provides an extra layer of protection because it requires mandatory reporting of any of the crimes outlined in chapter 22-46, by people working in certain designated professions. These professionals are the ones most likely to come into contact with an adult living with a disability that may be able to see or hear that something is wrong, and that a

vulnerable person is being victimized by a caretaker. There is also a subtle difference in the definitions that apply when evaluating these potential crimes in chapter 22-46 and chapter 22-22. In 22-46 an "adult with a disability" is defined as "a person eighteen years of age or older who has a condition of intellectual disability, infirmities of aging as manifested by organic brain damage, advanced age, or other physical dysfunction to the extent that the person is unable to protect himself or herself or provide for his or her own care." This definition seems to be anticipating someone who is profoundly disabled to the point they are unable to care for themselves, while in chapter 22-22 mental capacity to consent to a sexual act is to be appraised under the standard of whether the person is "incapable of appraising the nature of the person's conduct." In some cases, prosecutors no doubt seek guidance from both chapters to fully inform courts how vulnerable a victim is, since

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disabilities like most things within the human experience, exist on a spectrum and are not experienced the same way by every person.

This is just a shallow dive into the pool of statutory construction and definitions that law enforcement and prosecutors must swim in when deciding whether to charge someone with a crime, and which crime to charge. Applying definitions to real life facts can often prove difficult. When definitions are unclear, or leave room for interpretation, reasonable people will often disagree on what the real meaning is. This is why laws are always evolving, whether through legislative action, or court interpretation. The important point is that South Dakota is always moving forward in seeking to protect all citizens from acts of sexual violence.



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