

Iowa Drug Endangered Children (DEC) Workgroup

Governor's Office of Drug Control Policy
Pape State Office Building, 5th Floor SW
Des Moines, IA 50319

Dear Fellow Workgroup Members:

My name is Scott Nicholson. I am an Assistant Jasper County Attorney. I have been in Jasper County for 18 years now and have been a prosecutor for 20 years. I am also the chairman of the Jasper County DEC board of directors.

Back in 2007, a group of concerned individuals here in Jasper County decided it was time to try to do something more to protect children who were living in drug endangered environments. As we all know, Iowa, like many other Midwestern and Southern states, has a severe methamphetamine problem. However, at that time, we were also experiencing cocaine, heroin, and prescription pill abuse greatly affecting children in Jasper County, as well.

At the time, we had heard about the Iowa State DEC program and we knew there were a few counties that had developed DEC programs on their own. We set out to develop our own DEC program here in Jasper County.

In the beginning, it was just me from the County Attorney's Office, a DHS supervisor (retired now) and a drug task force officer (who works for the national DEC program at this time). It is important to keep in mind that prior to this time, the drug task force and the DHS did not share information, did not work well together, and at times did not even like each other.

We decided to put our differences behind us and as the DEC team grew, we developed protocols (some of which we modeled after other counties—thank you Dubuque County, --and some we developed on our own). As the team grew, we had members from the department of corrections, the DHS, several law enforcement agencies, the local drug task force, a local nurse practitioner, Blank Children's Hospital, the Jasper County Attorney's Office, and service providers from various agencies.

We developed rigid protocols concerning children found in drug endangered environments. Those protocols provided for the removal of children when found in certain situations. Specifically, children were removed from the home when found in any of the following conditions:

1. Active or inactive methamphetamine lab found in the residence.
2. Controlled substances are being sold from the residence.
3. Marijuana grow operation found in the residence.
4. Drug paraphernalia found within the reach of the child.
5. Methamphetamine use by the parent(s).
6. Heroin, cocaine, or use of any other illegal controlled substance by the parent(s) (except marijuana).
7. Any illegal controlled substance found in the residence where the child resides most of the time (except marijuana).

We had protocols that required relatives or friends to pass background checks and drug testing before they could receive custody of the child(ren). We called this “breaking the cycle” of substance abuse in families.

From 2008 until 2014, our DEC team operated under these protocols (we did add K-2 and bath salts when that hit us in 2012). There were many children removed from their parents and there were court filings (CINA) to ensure that the parents entered and completed substance abuse treatment and maintained a period of sobriety (as evidenced by drug testing) before their children were returned to their care and custody. In that 6-year period, only one DEC removal was challenged in court (but was successful) and no DEC adjudications have ever even been appealed from Jasper County.

But then in January of 2014, the DHS introduced the Differential Response (DR) System and everything changed. Under DR, there are two “pathways” for an

initial allegation of abuse to follow. One is the child abuse pathway, which is the traditional way the DHS used to investigate all allegations. The other is the family assessment pathway, which is dramatically different in approach and investigation of the allegation.

Under DR, the ONLY substance abuse allegations that will be investigated under the child abuse pathway are:

1. The allegation is meth and at least one child victim is under six years old.

OR

2. It is alleged that illegal drugs are being manufactured or sold from the family home.

All other substance abuse allegations are now assigned to the family assessment pathway. Under the family assessment pathway, which is also described as a “less adversarial” approach, the CPW is not allowed to contact law enforcement concerning the allegations of substance abuse. This puts the CPW at a great disadvantage because generally the drug task force will have information concerning the family and basically puts the CPW at risk when a home visit occurs. Here are the other things the child protection worker cannot do under a family assessment (as opposed to what they can do when investigating a child abuse assessment):

1. No “surprise” visits to the home unannounced.
2. No viewing of or interviewing of the child(ren) without the parents’ consent.
3. No court action whatsoever (No CINA filed, because the County Attorney is not consulted either).
4. No drug testing of the parent(s) or child(ren).
5. The assessment period is only 10 days in length (20 days for child abuse).

And finally, there is no mandated treatment even if the parent(s) admit to substance abuse (unless the child is under age six years and the substance is methamphetamine). If the parents admit to using cocaine, heroin, prescription drugs, and even methamphetamine if the child is over the age of 6 years, then the children are left in the home during the assessment period. If the CPW finds nothing else endangering the child during the 10 day assessment period, then services are RECOMMENDED to the parent(s). If the parent agrees to enter into services voluntarily, then a REFERRAL for services is made and the case is then closed.

One of the fundamental problems we have with this process is that there simply is no follow up on how many families are COMPLETING the services that are referred. This data is not currently being collected to our knowledge. It is my belief that these statistics will accurately reflect how many families have really rehabilitated and how many are simply paying lip service to the DHS to close the case.

The State of Illinois also implemented a two-pathway DR system. When the Illinois DHS finally started keeping track of follow through with services by families, it was found that LESS THAN 45% of the families that had services referred actually followed through with those services. That was a major factor in Illinois' decision to shut down the entire DR system.

Let me begin to close by stating that Differential Response appears to be working well in the State of Iowa. By no means are we calling for a complete upheaval of the system that is currently in place. It appears to be working well for those types of cases in which there was a minor incident such as a "dirty house" or a simple domestic dispute where the children were not directly involved. Family Assessment can work well for those types of isolated incidents and community based services can help. These people should not be on the child abuse registry, which is why DR was developed in the first place.

But methamphetamine addiction (cocaine, heroin, prescription pills) is not a minor incident or a one-time occurrence. It is an ongoing and continuous struggle for the addict, which means it is also an ongoing and continuous danger for the addicts' children.

We believe that cases of substance abuse by parents must be placed back into the child abuse assessment pathway, regardless of the age of the child, and regardless of the substance being abused (except for marijuana). This way, we can ensure

that children are properly protected from drug endangered environments. If this cannot be done, then we would like to create a new category of child abuse under the drug endangered children (DEC) definition we proposed to the legislature last session. There are other states that currently have such a definition. With this new category, it will be mandated that all such DEC cases be handled and investigated as child abuse cases and not merely as family assessments. Again, this is to ensure the safety of the children found in these situations from the beginning of the allegation until the children are permanently safe.

Finally, we are not asking that these cases necessarily place a parent on the child abuse registry. That should still be a determination made by the DHS.

Thank you for your time and consideration in this matter.

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