



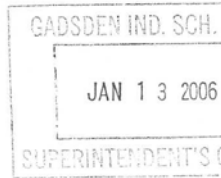
Third Judicial District Attorney
State of New Mexico

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January 9, 2006



Agueda Mora
Interim Superintendent
Gadsden Independent School District
P. O. Drawer 70
Anthony, NM 88021

Dear Ms. Mora:

With the recent change in the school administration, I would like to take this opportunity alert you to a serious issue so that together we can ensure that the safety and health of children is a priority in all circumstances. It has come to my attention that school personnel and administrators had been delaying the reporting of child abuse or neglect. This is a matter of great importance and could ultimately result in prosecution of these persons for obstruction. I have enclosed copies of the relevant statutes outlined below for your convenience.

Section 32A-4-3, NMSA 1978 is clear:

A. **Every person, including** a licensed physician; a resident or intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; **a schoolteacher; a school official;** a social worker acting in an official capacity; or a member of the clergy who has information not privileged as a matter of law, w

knows or has reasonable suspicion that a child is an abused or a neglected child shall report the matter *immediately* to:

- (1) a local law enforcement agency;
- (2) the {Children Youth and Families} department; or
- (3) a tribal law enforcement or social services agency for any Indian child residing

in Indian country.

Reasonable suspicion is that type of information that would lead a person to make further inquiry into the matter. Therefore, as soon as a person feels that they should ask more questions or in any way “investigate” child abuse or neglect, they must IMMEDIATELY report it. That person should not investigate the case or in any way interfere with the investigation. Making any inquiries of the child or the alleged perpetrator or any witness to the case is a form of interference. Children Youth and Families Department and the law enforcement agencies employ specially trained persons who conduct these investigations so that any trauma to the child is limited and so that the safety of the child is the primary consideration.

It is important to also note that any person who in good faith reports their suspicion of child abuse or neglect is immune from liability for that report. Section 32A-4-5(B). This section is meant to encourage immediate reports and prevent interference by others in the proper investigation of these matters.

A child is anyone under the age of eighteen years. Sexual assault of a child is a form of child abuse and must be reported.

Sexual assault means any of the acts prohibited by Chapter 30, Section 9 of the New Mexico Statutes Annotated and includes, but is not limited to, Criminal Sexual Contact of a Minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school

employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child, learns while performing services in or for a school that the child is a student in a school (Sec. 30-9-13(D)(2), NMSA 1978) and Criminal Sexual Penetration perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school (Sec. 30-9-11(F)(2), NMSA 1978).

My office aggressively prosecutes those offenders who abuse our children and we need the full cooperation of all adults, particularly in our schools, to protect these young people. Please inform all administrators, staff, volunteers and anyone associated with the schools of the laws set forth above.

I would welcome the opportunity to participate in the annual mandatory training of school personnel on this topic. If there are any questions, do not hesitate to contact my office.

Very truly yours,


Susana Martinez
District Attorney

Enclosure as noted

cc: Kasandra Gandara, County Office Manager, CYFD
Sheriff Todd Garrison, Dona Ana County Sheriff's Department
Chief Harry Romero, Las Cruces Police Department
Chief Danny Ross, Hatch Police Department
Marshall Joe Mendez, Mesilla Marshall's Office
Acting Chief Cal Calzada, Sunland Park Police Department
Captain Richard Williams, New Mexico State Police