



The Timothy Montoya Task Force To Prevent Children From Running Away From Out-Of-Home Placement | Meeting 18

May 15th, 2024, 8:00 am-11:00 am Virtual Meeting (Zoom)
Facilitators: Keystone Policy Center (Trace Faust & Doris Tolliver)
Members: See Appendix A

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| <p>Welcome & Approval of Minutes</p> | <ul style="list-style-type: none"> Task Force Chair Stephanie Villafuerte welcomed the task force. She then turned to approval of the previous meeting’s materials. She started with the prevention subcommittee minutes. She asked for corrections; there were none. Brandon Miller motioned; Jenna Coleman seconded. There was no opposition. The minutes were approved. Stephanie turned to the prevention subcommittee recap. She asked for corrections; there were none. Brandon motioned; Becky Miller Updike seconded. There was no opposition. The recap was approved. Next, Stephanie turned to the intervention subcommittee minutes. She asked for corrections; there were none. Beth McNalley motioned; Kevin Lash seconded. There was no opposition. The minutes were approved. Stephanie then turned to the intervention subcommittee recap. She asked for corrections; there were none. Kevin motioned; Beth seconded. There was no opposition. The recap was approved. Finally, Stephanie turned to the full group minutes. She asked for corrections; there were none. Jenna motioned; Beth seconded. There was no opposition. The minutes were approved. |
| <p>Procedure</p> | <ul style="list-style-type: none"> Trace Faust welcomed the task force. They reminded the group of the roadmap; they showed the list of upcoming meetings electronically. Slides. Jordan Steffen said that the facility survey is going out; she and Bryan will analyze the results and the task force will have that resource when discussing recommendations. |
| <p>Prevention Subcommittee</p> | <ul style="list-style-type: none"> Trace explained powerpoint slides; today’s meeting will be reviewing the conversations in the subcommittees thus far, rather than reviewing recommendations. They electronically displayed slides of the directive for the prevention subcommittee; it is about restraint. They also explained the current statutes about restraints and statutory definitions of emergency. They explained that the question for today is to determine if the current law is adequate. They also explained survey results of the subcommittee regarding this question. They asked Stephanie to further explain. Stephanie said that some members of the subcommittee found that there was a lack of clarity around these definitions. Some staff might take no effort to stop a child from running which can result in injury or liability. On the other hand, restraining a child from running can also result in injury or liability. She wants to have an open conversation about if these laws need clarification. The first conversation was about the definition of emergency; ‘should runaway behavior constitute an emergency?’. She also brought up the conversation about the definition of imminent; ‘should imminent only count immediate behavior or knowledge about past behavior?’. There is a case law that |



interprets this statute; imminent does not have to mean that exact second. Imminent is defined as relative rather than absolute. She brought up that another conversation was about the duty to intervene which also has case law about it. Duty to intervene regards when a facility admits a child their duty to keep a child safe; this is an omission in Colorado law. Next, she explained that there was a discussion on a good faith requirement which, when properly administered, would release some liability on facilities to perform restraints in good faith. Finally, she explained that there was a discussion on 'hands off policies'. She said that the discussion was about how parents and guardians need to know about the policies of the facilities that their children stay at. She asked Brandon for anything to add; he said that informing parents is relevant to running. Trace also added context; there was a panel of providers about the challenges they are facing. Stephanie said that the subcommittee spent two full meetings on this; she is condensing a lot of material in her overview. Trace asked subcommittee members for anything else to add; Bryan Kelley said that the task force already approved recommendations about a tiered approach to assessing risk and matching corresponding actions to each tier. Trace thanked him.

- Trace asked for thoughts; the goal is to draft recommendations based on the guidance from the task force. They started with the first question about the definition of emergency. Stephanie said that children with various mental health challenges are at risk when they run from a facility unattended so the question is if runaway behavior constitutes an emergency. Brandon added that there has to be a consensus about what is an emergency. He firmly believes that running away is evidence of an emergency and it is a safety issue. He said that either way, there should be clarity on this topic. Trace thanked them. Dr. Renee Marguardt said that there should be a definition of runaway behavior that constitutes an emergency; she would be concerned if running is always considered an emergency since that is not what she heard the subcommittee saying. Trace thanked her and said that the recommendation might be 'emergencies could include running behavior'. Renee said that listing things in statute can make difficult situations. Kevin asked about situations when running is not an emergency. Renee said some children walk down the block and then come back. Kevin said that if they have permission to do that then it is not a run. Dennis Desparrois said that many runs are not an emergency and many children come back unharmed. Trace asked Dennis for more thoughts. Dennis said that children run and come back; he brought up that children run because they need a break from the facility. Trace asked Brandon for his thoughts. Brandon said that he does not disagree; children often return unharmed. He brought up that there is a certain percentage of children that have a higher potential for harm when they leave the facility. He likes that running behavior can be evidence of constituting an emergency. He said that restraints are one tool and the potential for a child coming back unharmed should not bar staff from using all their tools. It is not the percentage of runs that are unsafe, even one child running in a way that is unsafe is enough. Trace thanked him. Brandon added that children are not always in the right mindset to be out in the public. He is not suggesting that everytime a child runs a staff member should go hands



on. But when a child is in a high emotional state, especially at a high tiered facility, running behavior is an emergency. Trace thanked him. Doris Tolliver said that clinical judgment is important in informing this situation; thinking about equitable interventions, a youth of color running away can have a different interpretation of their behavior. She suggested considerations around ensuring that children of color get the same care. Trace thanked her. Michelle Bradley said that Dennis has a good point; some children run to take space. It is scary and unsafe but it might not be an emergency. When an escalated child runs, that is more of an emergency. Trace asked if she agreed that that running could be an emergency. Michelle said yes but added that putting hands on an escalated child can make things worse. Trace thanked her. Kevin said that, in his experience, he got many calls from facilities that his child ran away and, as a parent, that is an emergency. He also knew that his son often did not come back after runs but many times he was allowed to walk away even though staff was trained to stop him; the police had to stop him. Trace thanked him and said that they are hearing an idea about 'running behavior could be an emergency' as well as professional knowledge. Lynette Overmeyer said that she is dealing with two children who run away and go into people's houses as well as into traffic; these are more dangerous. She wants the recommendation to be flexible to assess each child and allow for a facility to make a plan for when a child runs so they get to think about it before it happens. Trace thanked her. Dennis said that restraints cannot be in a treatment plan; it is statutorily prohibited. Trace asked him to elaborate. Dennis said that Colorado state statute prohibits restraints going into a treatment plan. Trace said that clarifying an emergency can include this consideration. Dennis said that it is illegal to include restraints in a treatment plan. Jordan asked him for the specific provision. Dennis said he will find it. Elizabeth Montoya said that when a child is assessed and falls into a high risk category, run behavior can constitute an emergency which would allow a facility to use all their tools. Trace thanked her; they asked Jordan if this is helpful for drafting. Jordan said yes.

- Stephanie further explained the definition of imminent. She said that some subcommittee members had disagreements on this definition. In the case law, imminent threat means likely to happen without delay; it also says that if the harm is not to occur immediately is not to say that the harm is not imminent. She said that the question centers around if imminent means this moment. There were many hypotheticals in the conversation such as a child sitting in traffic versus sitting in a field; there are thousands of hypotheticals. The conversation displayed the different perspectives on the definition. Rather than getting lost in the hypotheticals, the question is if the definition provides enough description to all those that must abide by it. She said that Brandon was helpful in her understanding. There is a difference in opinion in the field. Case law provides context for both positions as reasonable. Trace thanked her. Brandon said that Stephanie described it well; the lens of imminent danger comes from the action of the person in crisis rather than the person responsible for keeping that person safe. Framing imminent as right before an unsafe situation takes away the agency of a staff person to intervene. Trace thanked him. Dennis said that, to DHS, imminent means now. Kevin said that,



in law, there is a point of non-clarity. He also wanted to add that treatment plans included ways to take space but it was never okay to leave the facility. Being alone, outside the facility should not be allowed. There is always a treatment plan that makes a plan for what to do when dysregulated. Trace thanked him and asked for more comments. Lynette said that, following volume 7, her team looks for present and impending danger in assessments. She suggested using danger as a better descriptor, rather than harm. Dennis said that the task force should be cautious about interpretation; there are term limited positions in DHS so interpretations can change administration to administration. Jordan asked if the administrative change over should be motivation to change something in statute. Dennis said that, from his perspective, if CDHS changes their interpretation of imminent then there is a risk that the interpretation can change back to what it was before so the task force would not get what they want. Jordan asked if a statutory change would mitigate this. Dennis said that he thinks so.

- Trace moved to the third question about the duty to intervene. Stephanie said that the case law discusses behavioral health facilities and refers to a special relationship that imposes positive duties such as an obligation to secure health and wellbeing. Brandon said that many organizations screen to only serve certain children and that there are significant consequences beyond regulatory consequences. There are unattainable expectations that strangle facilities which lead to problems with placements of children since facilities are unwilling to take on the risk. Trace asked Brandon what he would like to see here. Brandon said more clarity so facilities can rely on the clarity to protect children. He also said that facilities deal with many competing pressures on this topic. Trace thanked him and asked for more thoughts. Stephanie said that, from her reading of case law, there is not only an affirmative duty but that duty might be heightened due to the nature of care provided which adds a new layer of obligation. She also explained that the other notion is that the facility understands a patient's conditions; there is a right of patients to expect certain levels of care. Trace thanked her. Kevin said that minors are under the care of their parents; his question is about the rights of parents. Stephanie said that parents have broad rights that are constitutional in nature and the concepts trickle down into everyday practices. She said that the notion that children have rights is super complicated. There are laws that protect children and youth, which are different from parents who have a constitutional right to raise their children. The US does not give children 'rights'. This is more of a narrative than based on law or facts; it is nuanced. Trace thanked them. Brandon said that he believes in informed consent. If the parent and the child want the care the facility provides, that is important to consider. Trace thanked him and asked for any other comments; there were none.
- Trace moved the task force to the fourth point about information used to justify a restraint. Stephanie added that the notion is about facility protections against regulatory violations. She explained that the idea would be a good faith requirement that a facility would have to show a regulator that they acted in good faith before they get a negative licensing violation. Bradon said that he wants people to feel accountable and safe; when professionals are



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| | <p>uncertain, it can create more risk for children in care. He said that it's important that due process is addressed. He likes the title of good faith. He compares it to prudent parenting and asking what someone would do with their own child. Trace thanked him. Lynette said that prudent parenting stood out to her; using this lens for facilities could guarantee that everyone has a say in what is going to happen. Trace thanked her. Jenna said that a good faith consideration would provide staff the ability to make professional judgements. Trace thanked her. Becky said that Jenna's point is huge; providers are heavily trained. Trace thanked her and asked for concerns. Jenna said that there are bad actors that can say they acted in good faith but did not; this creates a need for documentation which is already something facilities do. Trace thanked her and asked for more comments; there were none.</p> <ul style="list-style-type: none"> • Trace moved the task force to the fifth question. They explained that there is nothing in state law that requires a facility to disclose their policy to a parent. Elizabeth said that facilities should spell out what they do or they do not do when a child runs; it can be hard to understand the jargon on paper. Trace thanked her and reiterated that it would be a requirement to describe policy in detail to parents. Elizabeth agreed. Jenna asked if it is required to have safety plans in place during a run; if not, she suggested that this could be something given to the parents so everyone knows the plan if a child were to run. Bradon said that he is not sure if there is a requirement; his facility always makes safety plans. He said that it is about the expectations of people who send their children to facilities that do intervene but do not in particular situations. This creates a lot of confusion since parents expect children to be stopped before a run but that might not always happen. Trace brought up Dennis's point about restraints not being able to be a part of a safety plan. Brandon said that his question is if the safety plan can include potential tools rather than prescribe them; he is figuring this question out with the facility's regulator. Trace thanked him. Kevin said that his son was placed at Ridgeview Academy four times which has a liability waiver that allowed the ability to restrain his son in certain situations. He described his concerns to facilities that did not restrain his son. Trace thanked him and asked for other comments; there were none. • Trace moved the task force to a break and thanked everyone for their participation in a difficult topic. |
| <p>Intervention Subcommittee</p> | <ul style="list-style-type: none"> • Trace brought the task force back. Doris electronically shared powerpoint slides for the intervention subcommittee. She read the directive and shared the survey results. She also shared the questions for consideration about temporary placements. She explained the goals for temporary placements as identified by the subcommittee. • Doris asked for subcommittee members for anything to add as well as additional goals from other task force members. Beth said that there was a consideration about chronic, high risk children. Doris thanked her. Dennis said that this type of facility would not be financially viable. Doris asked him to say more. Dennis said that providers get a daily rate from counties when they place a child. A provider is not paid for empty beds so it would not be |



financially stable. Doris thanked him. Brandon said that this facility would want to prevent children from running again which could be challenging to make it staff secured. Doris thanked him. Brandon said that it could be secure but maybe not staff secure. Doris thanked him and asked for more comments. There were none.

- Doris explained the criteria for use of temporary placement. She asked for any additions to the criteria. Elizabeth said that Timmy's medicaid waiver allowed for temporary placement in foster care of respite care but there were no providers in the area. It's too expensive to keep beds open. Doris thanked her. Kevin asked Dennis about a minimum limit of open beds that the state pays for. Dennis said that there is a specific contract that the state pays for these beds. Becky asked for more information on this. Dennis said that a bill just passed to get funding; without funding they do not have the ability to pay for beds for temporary placement. Becky asked about the Shiloh beds. Dennis said that they might not have the funding for this going forward. Becky thanked him. Dennis said that there are also CPA contracted beds. Doris asked him to restate his last point. Dennis said that the Lariden Project came about since there weren't beds for difficult youth so the state decided to pay for all of their beds to allow the facility to staff how they needed to; the state paid for the beds regardless of if it was filled or not. Doris asked if this is a viable option for a temporary placement. Dennis said that it could be available but CDHS does not have funds available. Jordan asked if this could be a model that the task force considered. Dennis said that this could be a good statement. Doris thanked them and said that the recommendation would have to include the funding that would be appropriate to make this successful. Dennis said that he agrees; there needs to be empty beds for this to be successful and someone has to pay for that. Doris agreed. Dennis said that there would be a regional approach since there would need to be more locations than just in Denver, for example. Stephanie asked if the subcommittee explored options that might be available. She also asked about federal laws prohibiting sheltering children for certain amounts of time. Doris asked subcommittee members to add; she said that there was not a complete mapping but there was a conversation about the ways in which counties are approaching this conversation about finding current solutions while thinking about a long term solution. There is not a statewide approach to this. Beth said that the subcommittee talked about kinship placements but these can be harmful sometimes, they can be unsafe and can prolong too long. There was also a consideration about continuing a therapeutic plan. There was also a conversation about foster homes refusing to take a child since they are high risk. Doris thanked her. Dennis said that federal funding does not allow for homeless youth in certain shelters. Doris thanked him and reiterated the conversation about children outside of the child welfare system that meets clinical needs and provides a safe placement. Stephanie said that federal law is complicated; the nuance matters. Beth said that Urban Peaks have a limit of 21 days. Partnerships can get creative and do 21 days at Urban Peaks and then do 21 days at the Source. In rare circumstances, not an MOU, there can be shorter stays at Urban peaks. Stephannie asked how this is happening and if this is private funding. Dennis said that there are basic center grants from



the federal government which lays out certain conditions. There is also fundraising from private donations to fund the facility. Doris asked if this is for child welfare involved youth. Dennis said that his facility saw both populations. Doris thanked him. Michelle said that her team is dealing with this in real time; it is really frustrating and leads to burnout. Many people need to come to the table to solve this problem. Doris thanked her. Dennis said that the only model that has been successful is resourcing a facility to take difficult youth. Southern Peaks has a lot of staff to manage youth. A regular QRTP is not able to serve these youth; they don't have the staff. Doris thanked him. Jordan said that she is having a hard time narrowing this down. Dennis recommended someone with knowledge to help explain this; he said he would provide an introduction electronically. Doris thanked everyone.

- Doris explained the additional considerations in the powerpoint and shared them electronically. She also explained the potential policy recommendations. She also explained the lessons learned and challenges in operationalizing temporary placements. In this explanation, Dennis added that Denver temporarily housing children at Urban Peaks is illegal. Doris asked for more comments on this. Dennis said that he hopes this is not accurate. Anna said that there is no contract between Denver and Urban Peak for children in DHS custody. Doris thanked her and asked for any other comments on this conversation. There was none. Doris returned to explaining the elements of temporary placements. She asked for any other elements from the conversation as well as additional considerations. Pam, a member of the public, asked if there was a provider in this conversation. She is not sure if this matches with FFPSA that aims to limit the number of changes to placements. She is concerned about a milieu of runners. She supported Beth's idea about time limits. There is an escalation in behaviors when stays become too long but 21 days might not be enough time. She suggested a pathway of thinking about why children and running and wrapping around resources. She also echoed Dennis's concerns about feasibility. Doris thanked her and asked for reflections. She said that without a placement, children end up in offices and hotels so there is an impetus to try to have someplace that is safe and a placement to do at least some clinical work. She asked for reflections on this topic. Becky asked if locked facilities came up. She said that many children are placed out of state to place them in a locked facility. Beth said that this was brought up; she defers to Dennis since these facilities cannot be locked legally, hence why staffed secured was brought up. Dennis said that they are looking at this extensively to determine the parameters around this. He said that he would rather see a gate get locked than a child get restrained. He has been looking at PRTFs. Doris brought up a comment around children's rights in this conversation and the legal parameters in these conversations. She brought up a staffing model to ensure child safety especially with children who have a propensity to run. This leads to a conversation about workforce to use staffing as a mechanism to keep children safe. Dennis said that CDHS is building a PRTF that will likely have a locked perimeter fence. He is not sure what this means for other facilities; it is a legal gray area. Becky said that a legal tweak should be something to consider. She appreciates that Dennis is looking into this conversation. Doris



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| | <p>thanked her and brought up an intervention as a prevention for future runs to get at the root cause of a run. She explained that this is not for every youth who runs away but for youth who run away and meet certain criteria. Dennis said that his biggest concern is that those beds would fill and stay full so it would not be available since the beds are full all the time. Doris thanked him. Dennis said that PRTFs are always full and always have waitlists. Beth said that she asks what it looks like when children come back and that they just take their shoes. Dennis said that is not allowed. Beth continued that it is important to understand why a child runs; it is important to have a landing spot to receive services rather than just a bed. She also said that it is important to listen to children who have traumatic experiences with specific facilities and minimize moving around. Doris thanked her. Dennis asked whether independent living would mitigate this. Beth said that she thinks so and her team is looking into this. Dennis said that Third Way is looking at apartments. Beth said that independent living is not where Third Way has issues with running. Becky said that she likes Dennis’s question. Doris thanked everyone and asked for any additional comments. Stephanie asked what the scale of this is. Doris said that her understanding is that this question is unsure which is why data will be important to ensure a continuum of placements; the short answer is they do not know today. Becky said that the lowest hanging fruit solution is fulling funding a QRTP to staff up to provide more capacity. Doris thanked her and concluded this discussion.</p> |
| Public Comment | <ul style="list-style-type: none"> Trace asked for other public comments; there were none. Pam Treloar said her comments already. |
| Next Steps and Adjourn | <ul style="list-style-type: none"> Trace explained that the next steps are responding to recommendations based on this conversation and then moving on to next directives. They encouraged people to watch their inboxes. Stephanie thanked everyone. Trace dismissed the task force at 10:58 AM. |

Appendix A:

- Kelly Abbott
- Kevin Lash
- Michelle Bradley
- Anna Cole
- Becky Miller Updike
- Elizabeth Montoya
- Jenna Coleman
- Chelsea Hill
- Renee Marquardt
- Beth McNalley
- Brandon Miller
- Lynette Overmeyer