



**The Timothy Montoya Task Force To Prevent Children From  
Running Away From Out-Of-Home Placement | Meeting 17**

May 1, 2024

Prevention Subcommittee

Members: See Appendix A

<p>Prevention Subcommittee</p>	<ul style="list-style-type: none"> <li>• Trace Faust welcomed the group and explained what the conversation will be about. They introduced themselves as well as explained the goals of the task force as a whole. They clarified the specific directive and angle the subcommittee is discussing.</li> <li>• Trace asked the panelists to introduce themselves. Many of the panelists have experience in other states. Trace started with questions for the panelists and explained that Dennis can answer first with the regulatory background and then facility providers can add how that looks in their daily work.</li> <li>• Dennis Desparrios said that he keeps hearing the word risk but that is not in the definition. It is an imminent threat to cause bodily harm to self or others. He is confused why there is confusion. This stance has always been the stance of the department. He listed some examples like a child running to a busy street. Some providers have listed a potential snake being a threat but that is not imminent so that would not count in the same way a busy street would. Trace said that the goal is to differentiate between risk and imminent threat. Dennis agreed, imminent means now rather than an hour from now. Brandon Miller said that he agrees somewhat but there are aspects that make it conflicting. He brought up a definition of imminent in case law; the Colorado Supreme Court has not equated imminent threat with imminent danger. He also brought up a duty to intervene. When regulation and definitions do not match up with the situation, the facilities are at risk of unattainable expectations. If they follow the regulation then they might get sued over their approaches; this is where the conflict lies. If a child runs and gets hurt after being admitted then the facility is potentially liable, not from the regulators but from lawsuits. Dennis said that imminent danger and imminent risk are not in the definition, it is only imminent threat to cause bodily harm. Brandon responded that the likelihood of the action to occur is a factor to consider. There are other types of accountability, too, beyond just regulation, like a lawsuit as well as ethical considerations. It is a more complex issue than just that definition. Trace asked Dennis to respond. Dennis said that there have been no lawsuits against a facility after a child ran but they are more likely to be sued after injuring a child in a restrain. He said that youth get injured in restraints as do staff. Imminent threat for bodily harm is a good standard. Brandon said that he agrees but that is why it is situational rather than black and white. Most of the practices are evidence based; he agrees that restraint reduction should be the goal but a blanket bar against restraints is not the way to reduce them.</li> <li>• Trace said that his point lends to the lack of a good faith protection. They asked for thoughts on this. Brandon said that if his own children were highly escalated and he is looking to get them to stop doing something; it is prudent parenting to hold them back. He would do the same for any other child. He</li> </ul>
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would not go right to that in every situation but if he had to do that, he would protect the child. Being in charge of someone else's child is serious and he would want his own children to be protected.

- Pam Treloar asked if there is data about how often restraints happen and if this matches with the idea that there are too many restraints and resulting bodily harm. She asked Dennis for this data and also equating the data with the larger context. She asked if there are situations when a bruise is the lesser of two evils when a child is prevented from running. She also mentioned that providers are using a national curriculum. Staff are asked to use professional judgment and use de-escalation. There are conversations with CDHS around the subjectivity when there is an audit about a situation. She asked at what point professional assessment is defined. Restraints are not preferred. But, the research is around de-escalation tactics being too late and there are practices to prevent situations of escalation. She brought up the continuum of care. There is a cohort of children that need to get through the continuum before there is an analysis of FFPSA. Not going hands on with a child is best practice but might not intersect with the children coming into QRTPs. Mental health doesn't always have a cure; to fit a bar against restraints is not a match with children who have not had FFPSA for a long enough time. She suggested a step model until the implementation can catch up with the philosophy.
- Elizabeth Montoya said that Dennis's comment of no lawsuits being brought against a facility is untrue. Allowing facilities to assess imminent danger while a child is entering a facility is important; providers should be allowed to make assessments in the moment without liability. She would be happy to sign a liability waiver. There should also be more training for those in the milieu. This could mean higher pay. Something needs to happen; it cannot be black and white. Trace brought out her ideas of a training component and a professional judgment component. Elizabeth agreed and said that she would want providers to use restraints on a child who is suicidal since this is imminent danger if they run away.
- Dennis said that restraints are not overused currently; CDHS is analyzing data and they are not seeing an overuse or an abuse of restraints. Trace asked the context of this comment. Pam clarified that there is a narrative about restraints being overused so the data should be used to clarify. Dennis said that, outside of a few outliers, restraints are being used appropriately. Sometimes restrain is necessary and it can be trauma informed. Sometimes the acuity is more but the runs are declining in Colorado. He asked Brandon if locking his front gate would reduce runs significantly. Brandon said yes and that he does not disagree; there are a lot of good practices in place but there is 5% of the population where this is a major issue and it is dangerous. This needs to be the focus as well. Just because runs and restraints are going down, does not mean that there are no children in danger. His goal is to protect all children. There needs to be physical intervention as a tool to stop extreme behavior, like running away.
- Dennis said it appears as though the subcommittee is suggesting a statute change to put in 'danger', 'risk', or 'professional judgment'.



- Lauren Campbell asked if the data is total number reduction or a percentage. The total number of children in care has been reduced too so she is thinking about that. She also said that there is a thin line of interpretation and this is probably why this subcommittee is discussing it. The definition includes 'probable' which, to her, sounds like 'risk'. She has no issue with the word being in the law but it causes a thin line of interpretation.
- Dennis said that they run data aggregate and by percentage; they are all going down.
- Elizabeth said that she had the same question as Lauren.
- Dennis said that there are fewer children in care but that they run the data based on percentage too; runs are going down by percentage too.
- Brandon quoted *Andrews v. Colorado*. This relates to what Lauren said; it is not as simple as the immediacy of the harm but the likelihood which lends itself to considering risk. This creates a gray area for facilities. The definition is not being interpreted the same as Dennis is. He said that he is not interpreting it the same way as Dennis but he knows that people are, which is a part of the problem and the confusion.
- Dennis said that this has always been the stance of CDHS and CDHS is following its own legal advice in defining where the line is. Trace thanked him and said that it would be helpful to clarify the data. Dennis said that he clarified that restraints are not being used inappropriately; it is systematically not going poorly. Trace asked for clarity on the number of children running and the number of injuries to youth. Dennis said that there is no data on injuries since that is not allowed. Jordan Steffan said that the task force looked at data last year. She clarified about the question about correlating the number of runs and the number of injuries. Dennis said this relationship is not calculated since it is not allowed. Trace clarified if there is no data about when a restraint is used and if it resulted in injury. Dennis said no, they could run the numbers but it would not be useful since restraints are not being overused. Trace said that they were trying to understand the possibility rather than the usefulness. They also said that this dialogue is helpful and that subcommittee members can send them a note to add comments beyond the dialogue.
- Stephanie said that this discussion is not pro or anti restraints. Data is not irrelevant either because, like Brandon said, as long as there are a few children who would cause harm to themselves or others on a run, there needs to be a discussion about how to implement the standards. The conversation is how to get facilities and licensing on the same page about restraints. This is the issue; data is not the question. She said that she agrees with Elizabeth that it is not black and white. There is a lot of gray in between and that is where people get caught. She is asking for tools to consistently apply the law. Trace asked the providers on the panel about implementation and also brought up training. Stephanie restated her question and also specified about focusing on Colorado. She also mentioned that sometimes statues need to change and she is open to this. The current statute can include more analysis and flexibility like other statues do; it is possible to include more specificity.
- Dr. Renee Marguardt said that she will hold her questions.



- Marni Lyons said that she agrees with Stephanie. She thinks that the statute is written well as long as professionals interpret it and apply it; this approach might avoid a big change to the statute. It is CDHS's onus to determine if a facility's interpretation meets their's. She mentioned CPI national training happening in Colorado. Brandon mentioned that his facility has a different training. Marni continued that location of facilities can indicate different interpretations of training. She said that further clarification on training could lend itself to doing restraints appropriately. She hopes that the policy recommendations do not lend to creating more 'imminent threat'. Her facility has a no follow policy unless there are means to a threat since they sit on a river, a busy road, and a railroad track. Due to these imminent threats, they will not create the imminent threat by pursuing children on the run. Some staff have refused that policy and this has resulted in placing youth in more imminent threat. Trace said that they heard her say that the law is written well and that there should be professional judgment which is not currently in the law; this seems a little conflicting. Marni said that is a good point so then it comes down to interpretation. She appreciates the point and there should be a consideration for professional judgment. Trace asked about a potential statute change for something that is more specific to the professional judgment component. Stephanie said that it is a balance; the statute could say that someone can do something based on considerations. This is the point of law; to take out the guesswork. It should not be too strict.
- Trace asked for thoughts about professional judgment. Brandon said that being more descriptive is best practice. He said that he sees these issues coming down to the workforce. It is a challenging field and staff have to live with the consequences of their actions or inactions. To truly better the system, the quality of workers needs to be increased but it is an exhausted field. Trace thanked him and made a note of the workforce consideration.
- Pam said that clarification could be good but it is a fineline; if it is too closely defined, it will never capture every situation. There is a risk of unintended consequences. This is also not just a provider issue; children and families are in crisis and there are no quick fixes to mental health concerns. This is one piece of the pie and it needs to be integrated. She agrees with getting professional development more defined but there are also definitions already in place. She also highlighted Brandon's point of workforce. She also mentioned that a brain is not developed until 25 yet they have to hire college graduates who are not fully matured yet; there is a nationwide conversation about this. Trace mentioned the tie into training.
- Marni said that the strength is that as long as everyone can assess imminent threat, then they should be covered as it is written but the interpretation issues create the need to define it. She also would not want it too narrowly defined. Some better defined rationale and criteria can come from mental health assessments.
- Lauren Campbell said that professional assessment could be great but it could create barriers if the definition gets more nuanced. Her interpretation includes professional judgment but she is not sure how others interpret it. Marni said that this is her struggle too. Trace thanked them all; they reminded the subcommittee of the directive.



- Dennis said that he is not going to be opposed to everything the subcommittee recommends; CDHS is an enforcement mechanism. He also wants to dispel the idea that CDHS is super rigid. He shared an example of a facility that had a steep drop off after a fence; the solution was to stop children before the fence since it was an imminent threat. He is not sure that the narrative of CDHS being too rigid is real.
- Renee said that there can be different interpretations of language. There can be a reevaluation of interpretation. Either way, there is room for change and she hears concerns that it is overly strict which puts children at risk. There are multiple avenues to address this.
- Brandon said that he agrees with Dennis that CDHS is not rigid but it is not just CDHS; there are many other stakeholders. When there is a lack of clarity, stakeholders can get upset about a facility's decision. It can be difficult to navigate this. His bigger concern is providing clarity to his staff to do a better job to protect children. He wants to see this direction, specifically.
- Stephanie said that she respects Dennis and appreciates his positions. She supported what Brandon said too; it's about what works for a community of providers. As long as there are questions about the law, it is something that needs discussion. She suggests playing with the language to carve out instruction without prescriptive language.
- Trace asked what is happening and what is not happening at the provider level, specifically about training. They highlighted electronic chats about forcing staff to restrain when they do not want to restrain. Marni agreed and Dennis said that Third Way is not using restraints so this facility would likely agree with Marni. Marni said that if there is an imminent threat, they can restrain and they will but they do not want to increase restraints unnecessarily.
- Elizabeth said that Timothy has restraints used on him and she was notified every time there was an incident. She did not understand there was a different protocol for specific situations. Other facilities did not have a discussion about policies for running so she assumed the policies were the same. So, it is important that people know that information upfront. They also highlighted Stephanie's electronic chat about language that gives professionals clear discretion on when they can use restraints.
- Brandon said that there should not be an effort to pull back least restrictive care which often does not include restraints. Both can exist; a more descriptive structure on when to restrain but also making sure that, as professionals, they should go by least restrictive principle.
- Renee said that she agrees. She asked Dennis about why runs have gone down. Dennis said that there is not a good conclusion but his guess is that they bottomed out and they will see runs increase again. Dennis said another theory was a COVID decrease but it continued to decrease after; they just don't know. Renee said that behavior is hard to explain and it will continue to undulate.
- Trace brought up the training component and asked the providers what the training currently is as well as its strengths. They mentioned Colorado training and national training differences. Marni said that the performance management unit is a monitoring unit for QRTPs; they dive into facilities



training and have clear guidelines on training. There is a Colorado academy launching for staff that would bring standardized training. Dennis said that facilities that restrain need standardization and consistency; there is consistency on how this is done. Trace asked about providers being able to pick their standardized training to best fit their needs. Dennis said that the training is broader than restraints. CPI is mainly about de-escalation. These types of training sometimes focus on when it is appropriate to restrain but it focuses on de-escalation and, if someone needs to go hands on, then what it can look like. The models do not address complicated situations on when to restrain.

- Pam said she agrees with Dennis and said that her facility used CPI. She explained CPI certifications and renewals. Providers can tailor the training to their facility. Her staff has seen a decrease in restraints.
- Brandon said that they used a different national training which focuses on de-escalation. His belief is that the area of gap is the antecedent, primary intervention strategies. Training is about how to communicate with children if they are not in crisis and how to mitigate antecedents. This focus is to avoid professionals talking at children rather than with them. It's impossible to avoid all triggers but professionals can avoid them as much as possible with appropriate communication. There is a stronger struggle with communication in general. There are fewer restraints when mitigating antecedents. Jordan clarified that the conversation is about the statute about restraints.
- Lauren said that there is a baseline training; there is interpretation on how to do this. Criteria and consistency about on the job training is missing. Classroom training has more basic information. The regulation is more around classroom training which might not have the most wondrous impact on staff interacting with children.
- Dennis said that the training curriculum is solid; there might not be a problem here. He is also not hearing providers say that this is a problem.
- Brandon said that the training includes appropriate information. The gap of training is acknowledging that children are being placed since they are at risk; the crisis is internalized. Being able to identify cues of crisis and build a therapeutic relationship is important. He has not seen anything consistent about applying this in the real world. Jordan clarified that this is to get the lay of the land which will inform future conversations. Dennis appreciated the clarification and agreed.
- Renne said separating it is important; training is not super important on interpreting when restraint should be used. It is important to consider but the curriculum is not the issue. It's supervision on the ground which is hard to regulate. This aspect of training is different from the restrain question of today.
- Trace asked for any other questions for the provider panel. They asked Jordan for any gaps that she sees in regard to the directive. Brandon said that his ultimate question is what the recommendation will be? Trace said that the CPO team will analyze this conversation and draft language to respond to. Jordan said that she is drafting language for this group. She also clarified that the directive is specifically for restraints for children in out of home care. The buckets are clarity in the law, training, and disclosure. Disclosure is about



notifying families about restraint policy at the facility. She asked if there are any objections. There were none.

- Stephanie asked Brandon to say more. She said that she wants to hear more about what clarification looks like. Brandon responded that he would like to see an emphasis and clarity about which professionals can drive the individuality for each child. He said there is a lack of understanding on prescribing a restraint and a trauma informed way to work with children in scenarios. He also wants to see an understanding on imminent risk and imminent safety. Looking at a situation practically, if a child runs away and they cannot do anything, then what is the point of the child being in the facility's care. There needs to be an interpretation on when a child is in crisis and the likelihood of what a child will do when they run away. Earlier intervention and reading the evidence will reduce injuries. In other professions, like law enforcement, professionals try to stop situations before they happen. He also pointed out that the scenario discussed is not about if a child should be physically restrained; they are being restrained. Most times, someone is stopping them, if it is staff or law enforcement. The problem now is the time between leaving the facility and law enforcement recovery. He would want to avoid all the trauma that can happen on the run as well as the trauma that can happen without a trauma informed recovery. It can be very dangerous when a high risk child is in the community. It is a broader perspective than waiting for a child to be in obvious danger; the facility knows their history and should be able to trust the evidence in their behavior prior to a crisis. Stephanie thanked him and asked him if the definition limits action to only when there is a fire rather than prior to. Brandon said yes. He also said that when someone waits for a fire, there are more victims and more trauma. He asked if the objective is protecting people to agendas. Of course, no one wants a child restrained but that is not the reality of the situation. If they want to make the system better, they should start there. Stephanie asked what he would change about restrain law and if law is the solution or if there is another solution. Brandon said that the options are fight, flight or freeze and children will do one of these things. The flights are not rational. The outcomes are not good for someone, either the child or community members. Following the science, running away is evidence that someone is in crisis. Around the word imminent, he wonders the purpose of waiting until a victim occurs. It should be stopped before. So, as long as they can explain the evidence that a negative outcome is probable, that is the better approach. Stephanie said that his comments make sense, she is struggling with how to make a solution.



**POLICY COLLABORATIVE**  
FOR CHILDREN  
& FAMILIES



**KEYSTONE**  
POLICY CENTER

**Appendix A:**

Ashley Chase

Chelsea Hill

David Lee

Jenna Coleman

Kelly Abbott

Dr. Renee Marguardt

Stephanie Villafuerte

Brandon Miller

Elizabeth Montoya