



Timothy Montoya Task Force | Meeting 17

May 1, 2024

Prevention Subcommittee Meeting Recap

Overview

The Timothy Montoya Task Force to Prevent Children from Running Away from Out-of-home Placement is legislatively charged with analyzing the root causes of why children and youth run from out-of-home care to help develop a consistent, prompt and effective response for when children and youth do run. It is also charged with assessing how to address the safety and well-being of children and youth upon their return to care.

Panelist Discussion Regarding Clarity of Colorado Law

Trace Faust facilitated the Prevention Subcommittee discussion. Trace provided a brief overview of the group's directive, emphasizing the importance of analyzing the comprehensiveness and effectiveness of existing state laws and regulations regarding children who run away from out-of-home placements. They highlighted the word "analyze" to clarify the group's focus and mentioned the use of restraint in emergency situations as part of the discussion.

Panel members introduced themselves, providing their roles and backgrounds relevant to the discussion. Dennis Desparrois from the Colorado Department of Human Services (CDHS) joined to provide insights from the department's perspective. Pam Treloar from Shiloh House shared her extensive experience in the field of residential and day treatment services. Marni Lyons, the executive director of Gateway Residential Services and WhimSpire Child Placement Agency, offered her expertise from managing QRTP and foster care services. Brandon Miller, the executive director at Southern Peaks Regional Treatment Center, provided insights from his decade-long experience in residential treatment. Lauren Campbell, the chief operations officer at Griffith Centers, shared her background in overseeing residential programs for the past 13 years.

Imminent Threat of Bodily Harm

Dennis was asked how CDHS interprets the laws on restraint as the monitoring agency. He clarified that the term "risk" does not appear in the definition of restraint. Instead, the focus is on an imminent threat of bodily harm to oneself or others with the present means to carry it out. He emphasized that "imminent" means the threat is immediate, happening now. Dennis provided examples where the imminent threat of bodily harm is evident, such as a busy road or a dysregulated youth running towards danger. Dennis stressed that restraint should only occur when there is an imminent threat, not based on perceived risks. (He used the example of a youth running

out into a field and the perceived risk of the presence of rattlesnakes). He highlighted the importance of understanding the distinction between risk and imminent threat in interpreting and applying the law.

However, Brandon pointed out the complexities introduced by Colorado's legal landscape, including case law that equates imminent danger with imminent risk. Brandon suggested that organizations may face accountability if harm occurs, even if the threat was not immediate but foreseeable. He argues that the regulatory definition does not fully capture the responsibility organizations have to prevent harm and the ethical considerations involved. Brandon highlighted the need to balance legal compliance with moral and ethical obligations to protect youth from harm.

Dennis underscored that the likelihood of being sued for restraining a youth is higher than for allowing them to run away. He highlighted the risks associated with physical restraints, including the potential for injury to both staff and youth. Dennis argues that the threshold for restraint should consider whether the intervention would cause more harm than allowing the youth to leave temporarily. Brandon agreed with Dennis, emphasizing that restraints should be situational and based on evidence-based practices. He believes that the goal should be to reduce the need for restraints rather than eliminating them entirely, focusing instead on appropriate intervention practices.

Professional Judgement

The group debated whether current laws permit professional discretion or a good faith clause in restraint situations, questioning their effectiveness and flexibility. Trace prompted the subcommittee to consider revising laws for more decision-making leeway on restraints. Brandon stressed caregivers' responsibility to protect children, likening it to safeguarding their own.

Elizabeth Montoya emphasized the importance of empowering providers to assess imminent danger and make decisions based on their professional judgment. She argued for a revision of existing regulations to allow providers to assess the risk posed by children and youth in their care, particularly those who exhibit recurring behaviors or present with known mental health challenges.

The group explored the idea of incorporating language into the statute that allows for professional judgment in determining when restraint may be necessary. This approach would provide a framework for considering various factors such as the child's age, education level and well-being when making decisions about restraint. The aim is to provide clarity and guidance for providers while allowing flexibility to assess each situation individually.

Brandon emphasized the need to improve the quality of caregivers and address the challenges they face, including feelings of uncertainty and risk. Enhancing clarity and support for providers could contribute to creating a safer and more fulfilling work environment, ultimately benefiting both the caregivers and the children they serve.

Marni suggested looking to existing mental health assessment practices for guidance on defining and evaluating risk and assessing when to use restraint.

Liability Considerations

Elizabeth suggested that providers should have the ability to make assessments without incurring excessive liability. She proposed the idea of parents signing liability waivers to acknowledge the inherent risks associated with caring for children with complex needs. This approach could help mitigate concerns about legal liability while allowing providers to act in the best interests of the children in their care.

Data

Pam emphasized the importance of analyzing data to understand the frequency and outcomes of restraint use, highlighting the need for context in interpreting such data.

Dennis emphasized that the CDHS continuously analyzes restraint data and has not observed any inappropriate or excessive use of restraint. While there may be a narrative nationally about the use of restraints, the data in Colorado suggests otherwise. He emphasized that restraint use in facilities is generally appropriate, with declining run data indicating progress. However, he acknowledged the importance of addressing outliers, where children are at significant risk. Brandon agreed, expressing the need to protect all children, even if they represent a small percentage. Dennis underscored that changing the threshold for intervention would require a statutory amendment, suggesting that this group consider legislative action if they aim to incorporate professional judgment or assess risk differently.

Lauren questioned whether the data provided accounts for the total number of children in care or just the total number of runs and restraints, noting that the reduction in the total number of children in care could skew the interpretation of the data.

Renee Marquardt raised questions about the availability of updated data, specifically seeking information on the correlation between restraints used to prevent runaways and any resulting injuries.

Dennis clarified that there isn't data available on incidents where restraint is used to prevent runaways resulting in injuries because such incidents are not allowed. Analyzing this data would provide a skewed perspective due to the absence of reported incidents. Therefore, he advises against attempting to gather such data.

Dennis reiterated that while data on incidents of restraint resulting in injury when used to prevent runaways is not available, it wouldn't provide additional insights given the current understanding that restraint isn't overly utilized or used inappropriately in Colorado. He acknowledged the interest in clarifying available data based on the discussion but questions the utility of collecting such specific data in this context.

Consistency in Application of Restraint Laws

Stephanie Villafuerte emphasized the need for consistency in applying the current restraint law in Colorado across all facilities and staff. She questions whether there are adequate tools in place to ensure this consistency, highlighting the importance of training specifically tailored to Colorado law and circumstances. She suggested that the current statute may be too vague and could benefit from more specificity regarding the factors to consider when determining the need for restraint. She

proposed exploring other statutes that provide more detailed guidance on interpreting similar laws as a potential model for improvement.

Marni believes that the statute is written well and can support providers in making restraint decisions, especially in situations with imminent threats. However, she also emphasized the importance of professional judgment and the need for further clarification and guidance to ensure consistent interpretation and application of the law. Marni shared concerns about policies that might inadvertently create more imminent threats, such as pursuing youth in risky situations, and highlights the importance of training and adherence to facility-specific protocols. Additional support and guidance are necessary for providers to effectively navigate complex situations.

Clarity

Lauren raised a point about the potential for nuanced language to create additional barriers or confusion.

Brandon emphasized the need for clarity and specificity in guiding staff to protect children effectively. He highlighted the challenges providers face in navigating the lack of clarity around restraint protocols. Brandon's goal is to ensure that staff are equipped with clear guidance to prevent harm to children.

Stephanie emphasized the importance of clarity and discussion regarding the application of the law, recognizing the diversity of perspectives within the provider community. Stephanie encourages exploring different language options before determining the most suitable language.

Disclosure

Elizabeth highlighted the importance of disclosure from a parent's perspective, emphasizing that she was not fully informed about the restraint protocols at a previous facility where her child was placed. She stressed the need for clear communication and disclosure about how a facility manages incidents like running away, especially for parents making placement decisions for their children.

Acknowledging the importance of centering the voices of those most impacted by policies, Jenna Coleman emphasized the need for policies that reflect co-design with parents. She appreciates Elizabeth's reminder to focus on ensuring that parents are brought along in the process and that their perspectives are incorporated into policy development.

Brandon emphasized the importance of maintaining the principle of least restrictive practices in mental health care, even with clearer guidelines on restraint use. Renee agreed, noting that wording can be crafted to prevent unnecessary restraints.

Training

Dennis mentioned that the Performance Management Unit plays a significant role in monitoring and assessing training practices among providers, likely resulting in clear guidelines for staff training. While most facilities adhere to similar protocols, specialized facilities may face challenges in meeting training requirements. Additionally, Colorado plans to launch an academy to offer standardized training for staff across facilities.

Organizations like CPI (Crisis Prevention Institute) offer comprehensive crisis intervention training, prioritizing de-escalation techniques. Pam from Shiloh House highlighted their CPI training, leading to decreased restraint use. Brandon's organization uses Safe Crisis Management, focusing on communication and de-escalation. He emphasized the need for effective communication with at-risk children to prevent crises. He emphasized that successful prevention of restraints often hinges on professionals' ability to connect with and support children in managing triggers effectively. Lauren emphasized the importance of supervisor quality in training effectiveness, noting uncertainty about its impact on outcomes.

Jordan Steffen with the Office of the Child Protection Ombudsman reiterated the focus of the discussion on understanding the current landscape of training rather than questioning the baseline training itself. The goal is to gather information to inform potential recommendations for addressing interpretation or inconsistencies in Colorado law.

Consensus on Recommendations

Brandon raised a question about the task force's ultimate recommendation and expressed uncertainty about the group's consensus on the matter. Jordan explained that the team will analyze today's discussion, incorporating input from both providers and task force members to formulate recommendations. She highlighted that not every directive necessarily results in recommendations and that the final report may include next steps rather than specific recommendations.