

**Colorado Commission on Criminal and Juvenile Justice
Cyberbullying Subcommittee**

August 5, 2014 - 2:00 pm-4:00 pm
700 Kipling Street, 4th floor conference room, Lakewood, CO

Members Present

Kevin Paletta, Lakewood Police Department
Jeanne Smith, Division of Criminal Justice
Jennifer Bradford, MSU Denver
Denise Maes, ACLU of Denver
Patty Moschner, Douglas Sheriff’s Office
Christine Brite, Douglas County Sheriff’s Office
Tom Raynes, CDAC

Guests:

Ken Plotz, Consultant to the CCJJ/JJTF
Jana Locke, Legislative liaison CDPS
Erin Jemison, CCASA
Linda Newell, Colorado Senate, District 26
Laurie Kepros, CCDB/Public Defender
Jesse Jensen, CACP/CCASA/CCADU

Members Absent

Kelly Friesen, SB94, 14th JD/Grand Co. J.J. Dept.
Maureen Cain, Attorney at Law
Chris Harm, Safe School Resource Center

Staff:

Kim English, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice

<p>Issue/Topic:</p> <p>Welcome, Introductions</p>	<p>Jeanne Smith welcomed the group and explained that the Division of Criminal Justice provides staff support to the Commission on Criminal and Juvenile Justice. The Chair and Vice Chair of the CCJJ appointed Chief Paletta as Chair of the Cyberbullying Subcommittee.</p> <p>Kevin Paletta welcomed the group and members and guests introduced themselves.</p>
<p>Issue/Topic:</p> <p>History of Legislative Request</p>	<p>History of Legislative intent</p> <p>House Bill 2014-1131 was intended to address Cyberbullying. The bill was postponed indefinitely as no clear consensus could be reached among the stakeholders.</p> <p>The Colorado Commission on Criminal and Juvenile Justice received a letter dated April 15, 2014 from the Legislative leadership and the bill’s sponsors requesting that CCJJ develop recommendations for a comprehensive response to address cyberbullying and submit a report to the Governor’s Office of Legal Counsel and the House and Senate Judiciary Committees by December 1, 2014.</p> <p>Subsequently, the Commission received a follow-up request, by one of the bill sponsors, Sen. Kefalas, to explore the issues around criminal libel.</p> <p>The Commission created this Cyberbullying Subcommittee to explore the topics included in these requests.</p>

	<p><u>Group discussion</u></p> <p>One comment indicated that, when H.B. 14-1131 was introduced, there was consensus that the topic of cyberbullying is important, but little agreement regarding how to address this conduct.</p> <p>Some of the concerns expressed during the Legislation session included:</p> <ul style="list-style-type: none"> • whether there was need to develop specific statutes for cyberbullying when existing statutes may already address the issue, and • that the proposed provisions may impact 1st amendment rights. <p>Senator Newell reported that the letter incorrectly omitted the issue of sexting, which was remedied by the follow-up request by Sen. Kefalas.</p>
<p>Issue/Topic:</p> <p>Discussions about the issue to address</p>	<p>What specific problems should be addressed?</p> <p>Do most of the cyberbullying cases involve sexually explicit photographs? It is a small percentage of cases. Cyberbullying is a broader issue including bullying, harassment, intimidation etc. over social media.</p> <p>The request implied that the focus of the issue was juvenile behavior but it was suggested that the group also include adults because cyberbullying affects all ages. The example of bullying in the work place was described to explain the concern. It was commented that existing statutes (for instance, the harassment statutes) already address the issues related to bullying occurring in the work place. When dealing with juveniles, the misconduct or poor decision making is more complex as juveniles may not fully understand the implication of their actions.</p> <p>Restorative justice processes were discussed as a possible option to address such conduct by juveniles. This is a more attractive option, given the stated concerns about juveniles' capacity to foresee consequences (i.e., brain development issues) and the long-term, unintended consequences of criminal justice system involvement.</p> <p>Law enforcement is challenged by this issue.</p> <p>Another topic for exploration may be the patterns of bullying. Bullying often starts at very early age when there is no or little response to such behavior. Over time, some youth may be the consistent target for bullying, and the types and degrees of bullying may escalate over time.</p> <p>Additionally, bullying behaviors are under-reported. Schools respond to bullying incidents internally and most parents are unwilling to report the bully to representatives of the criminal justice system.</p> <p>Education and prevention initiatives have been offered in some schools, but the participation by families has been minimal.</p>

	<p>What is the appropriate response to address cyberbullying? Should the response be provided by the criminal justice system, the education system or within restorative justice programs? Should there be a coordinated response by the criminal justice and education systems?</p> <p>It was agreed that there are situations when more than a “slap on the wrist” would be appropriate, but harsh and punitive responses in the criminal justice system have many unintended and long-term consequences for youth.</p> <p>One of the concerns with a restorative justice response is that there may be a one size fits all approach to this intervention.</p> <p>Denise Maes reported that Padres y Jovenes Unidos negotiated a Memorandum of Understanding between Denver Public Schools and the Denver Police Department to determine which cases should be addressed directly by School Resource Officers (SROs) and which should be forwarded to the police department for more serious criminal enforcement. The group expressed interest in examining the MOU; Denise Maes will forward the document to the group.</p> <p>Members were reminded that SROs document all incidents and have discretion to handle incidents by issuing a summons. One of the challenges is that law enforcement officers have to investigate all behaviors to determine seriousness and to determine which appropriate for referral for prosecution.</p>
<p>Issue/Topic:</p> <p>How to get educated</p>	<p>How might members learn more about the problem?</p> <p><u>Research – Jen Bradford</u> Jen Bradford informed the group that some of her colleagues at Metro State College have conducted research on cyberbullying and proposed to invite them to present their research and policy recommendations.</p> <p>Jen Bradford presented a way to structure and define the scope of the issue.</p> <p>Is cyberbullying a problem that should be addressed in statute? This is a fundamental question for the Subcommittee because, although bullying is not new, the platform has changed and evolved due to technology. Bullying in the past was confined, for example, to classrooms, school grounds, the bus or bus stops. Today, the problem behavior can occur 24/7 via many social media outlets. The frequency of the problem has increased because of the evolution of technology but the crime, the behavior, is the same (harassment, assault, stalking, sex offense etc.).</p>

	<p>The enforcement issues of the offense are similar to harassment and stalking, but challenging when dealing with a 15 year old bully.</p> <p>If cyberbullying is a crime, can existing statutes address the behavior?</p> <p>Sometimes laws are passed based on extreme incidences that draw public attention. What are the actual incidents rates of cyberbullying?</p> <p>Bullying and cyberbullying incidents are largely under-reported.</p> <p>The quality of the reporting systems currently in place is primarily influenced by concerns about liability. In some instances, the reporting of an incident serves mainly to protect the organization and the response is usually internal.</p> <p>Research shows that zero tolerance policies are not effective and result in increasing the use of the juvenile justice system.</p> <p>In summarizing the previous discussion points, Jen Bradford suggested that the group explore the idea of an education campaign, rather than legislative changes. The group should also work on the definition of cyberbullying by identifying specific criteria (for example number of instances, platform used, and whether the cyberbully is identified).</p> <p><u>Other states' experiences – Jeanne Smith, Ken Plotz</u></p> <p>Jeanne Smith and Ken Plotz presented documents containing information on the definition of cyberbullying in other states and practices that have been adopted. These documents are included in the packet presented to the group.</p> <p>The group may find the website from the Cyberbullying Research Center a resource for definitions, materials and references (see, http://cyberbullying.us).</p> <p><u>Group discussion continues</u></p> <p>Ken Plotz offered to explore existing legislation that might withstand scrutiny by legislators and that has been implemented effectively.</p> <p>Denise Maes will provide the group with the draft of harassment statutes that was proposed in Maryland but deemed unconstitutional by the Federal Court.</p> <p>The Cyberbullying Subcommittee group discussed the reporting issues and challenges of the sharing of information.</p> <p>The group also discussed how a young bully becomes a bully. What is their home environment like?</p>
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	<p>Christine Brite will provide the group powerpoint presentation on sexting that is presented to students and families in her jurisdiction.</p> <p>How effective is current legislation in addressing the problem of sexting? The group agreed that it is a dilemma to put a juvenile in the justice system with a felony in an attempt to address this issue. Some aspects of the behavior may be typical adolescent conduct. Yet this has a serious impact on victims.</p> <p>The annual legislative report of the Sex Offender Management Board released in January 2014 includes a section on sexting. Tom Raynes and Laurie Kepros also worked collaboratively on sexting issues and proposed to present their work at a future meeting. It was suggested that the Subcommittee determine where there are collaborative efforts underway by other groups to avoid redundant work.</p> <p>The request submitted by Senator Kefalas mentioned an adult incident that seems to be outside the scope of the original letter. Senator Newell will discuss the request with Senator Kefalas.</p> <p>Additional sources of information on the topic might be found among youth groups and the National Center for Missing and Exploited Children (NICMEC).</p>
<p>Issue/Topic:</p> <p>Develop a plan for study and recommendations</p>	<p>Develop a plan for study and recommendations – Kevin Paletta</p> <p>The group developed a plan to address the following questions:</p> <ul style="list-style-type: none"> • What are the specific problems to address? • What are the existing statutes? Do they provide an overly aggressive response and what would be the appropriate response? • What are the legislative gaps? • Is there a need for additional statutory language to clarify legislative intent? • What role can restorative justice play in addressing cyberbullying?
<p>Issue/Topic:</p> <p>Next meetings</p>	<p>The group agreed to meet every 3 weeks to meet the December 1, 2014 deadline.</p> <p>Colleagues of Jen Bradford will be invited to present at the next meeting on August 26, 2014.</p> <p>Meeting adjourned at 4pm.</p>