Colorado Commission on Criminal and Juvenile Justice
Cyberbullying Subcommittee
August 26, 2014 - 2:00 pm-4:30 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
Patty Moschner, Douglas Sheriff's Office
Kelly Friesen, SB94, 14th JD/Grand Co. J.J. Dept.
Chris Harm, Safe School Resource Center
Linda Newell, Colorado Senate, District 26

Members Absent
Maureen Cain, Colorado Defense Bar
Tom Raynes, CDAC
Christine Brite, Douglas County Sheriff's Office
Denise Maes, ACLU of Denver

Guests:
Jesse Jensen, CACP/CCASA/CCADU
Rhonda Fields, Colorado House of Representative, District 42
Jenn Capps, Metropolitan State University
Denise Mowder, Metropolitan State University
Hanni Raley, The Arc of Aurora

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

Issue/Topic:	
Welcome, Introductions and follow-up discussions	Kevin Paletta welcomed the group and members and guests introduced themselves. Patty Moschner moved for the approval of minutes of the Cyberbullying Subcommittee meeting on 8/05/2014. Jen Bradford seconded the motion. The minutes were approved by unanimous vote. Kevin Paletta reminded the group that the Colorado Commission on Criminal and Juvenile Justice received a letter dated April 15, 2014 from the Legislative leadership requesting that CCJJ develop recommendations for a comprehensive response to address cyberbullying issues. The Commission created this Cyberbullying Subcommittee and was tasked to: - review the statutes that can be used to address acts of cyberbullying and identify any gaps in the existing legislation, - identify effective interventions in preventing, reducing and responding to acts of cyberbullying. - examine the role of restorative justice in assisting victims, in educating offenders and communities, - identify the existing methods of intervention assisting victims in recovery from the damages caused by cyberbullying, - evaluate the relevant impacts to criminal convictions or juvenile adjudications of cyberbullying charges or sexting charge. Kevin Paletta summarized the discussions that occurred at the first Cyberbullying Subcommittee meeting on August 5:

	- The act of bullying has and continues to exist in our society, particularly in schools; - There was consensus among the Subcommittee on the importance of addressing the issue of cyberbullying; - There is no concise data on the prevalence of cyberbullying and no uniformed mechanisms to track cyberbullying incidents; - There is no legislative solution that can eradicate this behavior; - Is there a need to develop specific statutes for cyberbullying when existing statutes may address the issue? - What are the gaps in the existing legislation and should they be filled by amending existing laws or creating new laws? - Best responses should be evidence-based and should involve a multi-disciplinary approach; - Some concerns were expressed at the Legislature around the constitutionality of legislative limits on free speech. A too broad legislative definition could result in a substantial increase of criminal acts to investigate and long-term unintended consequences for juveniles involved in the justice system. The Commission received a follow-up request, by one of the H.B. 14-1131 sponsors, Senator Kefalas, to explore the issues around criminal libel. The Cyberbullying Subcommittee recognized that, while sexting can intersect with cyberbullying, some concerns were expressed that the issue of sexting exceeds the scope of the work of this Subcommittee given the deadline of December 1, 2014 to report to the General Assembly. It was commented that sexting plays a part in different arenas such as the exploitation of children and cyberbullying acts and, because of the broad complexity of the problem, the Subcommittee will ask that the issue of sexting not be included in the scope of work. Senator Newell will report these discussions to Senator Kefalas.
Issue/Topic: **Presentation on Effective Cyberbullying Strategies**	**Presentation on Effective Cyberbullying Strategies** Kevin Paletta introduced Denise Mowder, and Jenn Capps from Metro State College who presented their research on cyberbullying. The powerpoint presentation can be found at: http://www.colorado.gov/cs/Satellite/CDPS-CCJJ/CBON/1251655835560 Group discussion: **Reporting:** It was clarified that the rate of cyberbullying incidents reported for Colorado are victimization rates (self-reporting). Studies show that approximately 25% of students report having ever in their lifetime been a victim of cyberbullying (see powerpoint presentation).

Suicides:
One study found that victims of cyberbullying are nearly twice as likely as non-victims to attempt suicide (see powerpoint). There are other risks that increase with cyberbullying, according to research, including substance abuse, mental illness, depression and poor self-esteem.

Colorado's Legislative Rules and Regulations.
The legislative intent is to define bullying and to require schools to develop policies to address bullying. Some of the concerns expressed by schools are that these Legislative rules and regulations are unfunded mandates, and imply that the response for bullying/cyberbullying acts is the sole responsibility of schools. Also, the presenters suggested that the current definition of bullying may be too broad.

Research
One Subcommittee member reported that research shows that not addressing homophobic language among school-age youth may be leading to more dating violence and sexual assaults.

Is there any research showing that Victim/Offender mediation programs are effective? There is no known research about the effectiveness of these programs. A variety of programs exist. Victim/Offender mediation programs have been folded into some restorative justice practices.

Cyberbullying is a relatively recent problem and research on what intervention is effective is very limited.

Many issues were raised during the discussion. How do we measure the number of incidents and degree of bullying? Is it the number of web posts or number of recipients? How to determine which factor(s) cause more harm?

Cyberbullying and schools
Acts of cyberbullying are likely to occur beyond school grounds and there was consensus among the group that the response should include a multi-disciplinary approach (schools, families, communities, police etc.).

Bullying and discriminatory harassment are covered under federal civil rights laws, and schools are obligated by these laws to address conduct that is severe, pervasive or persistent, and that creates a hostile environment at school.

The issue was raised that addressing cyberbullying can be a resource issue for schools. Not all schools have SROs because of resource issues for both schools and law enforcement.

	Recommendations/Responses to explore As suggested by the presenters, a tiered system of response to cyberbullying was discussed. This system could include low, middle and high level responses to inappropriate conduct. For example, such an approach would begin with prevention/education for the youth, with increasing levels of assessment/treatment and accountability depending on the behavior. The repetitiveness and degree of bullying should be factored into the level and intensity of the response. What entity would administer the tiered system? This model would allow local discretion and integrate community values while acknowledging that communities may have different responses based on history, expectations and values. It was suggested to explore the idea of developing statutes for bullying/cyberbullying as enhancement of a charge for repeat offenders.
Issue/Topic: **Update on "Effective & Constitutional" Cyberbullying laws**	**Update on "Effective & Constitutional" Cyberbullying laws** Most of the states that have implemented cyberbullying laws have chosen to require schools to develop policies rather than to apply criminal sanctions. These laws are very recent and there is no research showing how effective these laws and policies are in reducing the incidence of bullying.
Issue/Topic: **Update on Cyberbullying data**	**Update on Cyberbullying data (prevalence of the crime) –** *DCJ, CDAC and Colorado Safe School Resource Center (CSSRC).* The U.S. Department of Education surveys high school students and middle school students every two years (Healthy Kids Colorado Survey). This is a self-administered questionnaire that covers many topics about the health-related attitudes and behaviors and is regularly administered across Colorado to students in grades 6-12. In 2011, the students were asked about cyberbullying for the 1st time. ---14.4% High School students reported having been cyberbullied *in the past 12 months.* ---19.8% for Middle school reported that they have been cyberbullied *ever.* (It was pointed out that different questions were asked about cyberbullying incidents to high school and middle school students so the results are difficult to compare.) Traditional bullying is still more common than cyberbullying (*Lenhart, 2007; Smith et al., 2008; Wang, Nansel, & Iannotti, 2011*) and the rates of traditional bullying incidents have been steady over the last 20 years. Acts of cyberbullying draw more public attention but studies vary in regards to whether cyberbullying rates are actually increasing.

Issue/Topic: **Update on gaps with existing legislation**	**Update on gaps with existing legislation (crimes currently not covered by laws)** – *All* *Do the harassment statutes cover enough to address cyberbullying acts?* Sen. Newell reported that there were many disagreements expressed at the Legislature regarding the use of harassment statutes to address cyberbullying. Some suggested adding the terminology "electronic" in the harassment statutes but others argued that this would result in classifying cyberbullying as a criminal offense. *Are there incidences of cyberbullying that could not be prosecuted with existing legislation?* The group discussed that there is a general sense that the harassment legislation can address any criminal offense related to cyberbullying. *Are there any gaps in the harassment statutes?* As defined in the harassment statute, an offender must have a direct communication with the victim. This definition doesn't address electronic harassment or indirect communication.
Issue/Topic: **Next Steps**	**Next Steps –** *Jeanne Smith* The following topics are to be discussed at future meetings: **Effective prevention and intervention methods.** Research shows that intervention methods involving group therapies with bullies are not effective and reinforce their behavior. One-on-one empathy classes with bully appear to be more effective as well as cognitive behavioral therapy programs as these programs focus on behavior change. It was agreed that the Colorado Department of Education will be invited to participate in these discussions to share their perspectives on how bullying/cyberbullying incidents are currently handled in schools. **The role of victim-initiated restorative justice in addressing cyberbullying. Methods and interventions that may assist victims to recover**. Victims' service providers and Colorado Children and Adolescent Mental Health Collaborative will be contacted to inquire about their experience with effective methods and interventions that may assist victims in the recovery process. Additionally, the Restorative Justice Council, staffed by Judicial, will be contacted to discuss programs that might reduce recidivism rates with cyberbullying cases.

	It was reported that Dr. Dorothy L. Espelage from the Bullying Prevention Institute will present on Positive School Climate on September 16, 2014 in Grand Junction. This presentation and past trainings can be on the Colorado Safe School Resource Center website at http://www.colorado.gov/cs/Satellite/CDPS-safeSchools/CBON/1251622398432
Issue/Topic: Next meeting	Next meeting is scheduled on Wednesday, September 17, 2014 at 9 a.m. Meeting adjourned at 4:30 p.m.