# Colorado Commission on Criminal and Juvenile Justice Abuse of Youth in Custody Subcommittee

# **Minutes**

January 17, 2019 1:30PM-3:00PM 700 Kipling, 4th Floor Training Room

#### **ATTENDEES:**

#### **SUBCOMMITTEE MEMBERS**

Joe Thome, Subcommittee Chair, Division of Criminal Justice Blake Harrison, 2<sup>nd</sup> Judicial District Attorney's Office Effie Seibold, Public Defender's Office Natasha Mitchell, Office of the Child Protection Ombudsman Anders Jacobson, CDHS, Division of Youth Services

## **ABSENT**

Gretchen Russo, CDHS Judicial & Legislative Administrator Joseph Brozek, CDHS Child Welfare

#### **STAFF**

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

Issue/Topic: Welcome and Introductions	Discussion:
	Joe Thome, Subcommittee Chair, welcomed the group and asked attendees to introduce themselves. He also mentioned that Gretchen Russo and Joey Brozek were not able to attend due to scheduling conflicts.

Issue/Topic: Recap of December Meeting	Discussion:
Review of Agenda	Joe offered a brief recap of the December meeting, stating that the group identified three topics of discussion for today's meeting:
	1. Ensure CDHS can intervene when needed.
	2. Ensure officials have information that they need.
	3. What increased penalties (if any) are necessary?
	After reviewing the data provided by Joey Brozek, the focus of today's meeting will be to get a consensus on what issues rise to the top and discuss possible solutions. Joe reminded the group that a recommendation from this Subcommittee is expected to be presented to CCJJ in May and submitted to the General Assembly by June 2019.

#### Issue/Topic:

Data from Child Welfare

#### **Discussion:**

Joe directed the group to a handout, provided by Joey, which included selected pages from an internal tracking document used by his office (Institutional Assessment/Abuse Review Team) at the CO Department of Humans Services: Division of Child Welfare. The document provided examples of abuse and neglect referral data in use by his office to track trends in reports of abuse and neglect.

Joey was not present to describe the handout. The group engaged in a quick review of the information and will reach out to Joey if follow-up is necessary.

#### Issue/Topic:

Scope of the problem Possible solutions

#### **Discussion:**

A question was asked about what is missing in the criminal statutes and whether we intended to treat foster parents/guardians differently from other parents.

The issue is that there might be some gaps regarding whether a person is charged with child abuse vs. assault. If a person is charged with child abuse, he/she will be unable to become a foster parent but could become a foster parent or work with youth if charged with assault. The penalty for assault is lower, and it is not apparent that the victim was young and/or in a CDHS facility.

There may also be an issue regarding information sharing when someone is charged with assault. How can the information be made available to those at CDHS and other child welfare entities that need the information?

# 1. Ensure that CDHS knows about all incidents and can intervene when necessary

House Bill 18-1346 may have solved this problem. In addition, a new rule in CDHS Vol. 7 that requires the development of MOUs between law enforcement and government agencies may also address this issue.

→ Gretchen Russo and Joey Brozek will be asked to confirm that CDHS policy addresses this issue.

#### 2. Ensure officials have information about alleged abusers

There is a gap when a youth 16+ is abused. The abuser will be charged with assault. It will not appear in the CDHS information system and is not flagged. An employee of CDHS might be able to retain employability because he was not legally founded on a child abuse charge.

How to ensure that the information is retained and available for people that may need the information?

It was mentioned that there is a statute where school districts have to report if an alleged abuser who previously worked as a teacher tries to work with children or become a foster parent.

#### Action:

Gretchen Russo and Joey Brozek will be asked to confirm that CDHS policy addresses the child abuse vs. assault charge issue.

#### Issue/Topic:

Scope of the problem Possible solutions (continued)

It was suggested that it might be necessary to allow access by other entities to the Child Abuse Registry.

Joe reminded the group that the ability for a person to be reinstated in the state system after his/her case is founded is beyond the scope of this Subcommittee. However, this issue will be reported in the recommendation.

Natasha Mitchell mentioned that there are no statutes regarding sexual exploitation of children in institutions and sex trafficking. Should the language "Position of Trust" be attached to those statutes?

# 3. Increase penalties?

It was mentioned that CDAC may not object to an increase in the victim age in the child abuse statutes, from 16 to 18 years old.

The group discussed the following strategies:

- 1. Creating a crime: "INSTITUTIONAL ABUSE" or "FACILITY ABUSE"
  - Treat "Institutional Abuse" (IA) as we do domestic violence (DV).
  - Define IA
  - Require a factual basis of IA to be determined by the court
  - Create a flag for these cases, as we do with DV
  - Define specific consequences
- 2. Create in statute the position of Inspector General for CDHS to work with local law enforcement and stakeholders; consider placing the position in the Office of the Child Ombudsman. This would:
  - Bring consistency to the process
  - Provide a single point of contact
  - If a case is founded by the county, it would be sent to the Child Ombudsman Office for referral to DA

Issue/Topic:	Discussion:
Next steps and Adjourn	
	Joe thanked the group members for their participation, and requested that the length of the next meeting be extended to allow more time to discuss these strategies.
Action:	At next meeting, the group will discuss the following points:
Discussion points and tasks	<ol> <li>Confirm the earlier discussion with CDHS representatives.</li> </ol>
for the next meeting	2. Draft the statutory language necessary for a new crime,
	INSTITUTIONAL ABUSE/FACILITY ABUSE
	3. Treat IA like DV
	4. Discuss the role of Inspector General
	5. Outline our report
	The meeting in February will be extended to 3:30pm.

## **Next Meeting**

February 14, 2019

1:30pm – 3:30pm (**EXTENDED MEETING**) 700 Kipling, 4th Floor Training Room