

Office of the Child Advocate
Juvenile Justice Policy and Data Board - Full Board Meeting
June 12th, 2019

Members and Designees in Attendance:

- Chief Kevin Kennedy (Chiefs of Police Association)
- Barbara Kaban (CPCS)
- Christina Tedstone (DCF)
- Sana Fadel (CfJJ)
- Rebecca Brink (DCF)
- Lindsey Tucker (DPH)
- Rep. Carolyn Dykema (MA State Legislature)
- Peter Forbes (DYS)
- Tom Capasso (Juvenile Court)
- Tammy Mello (Children's League)
- Maria Mossaides (OCA)

Other Attendees:

- Melissa Threadgill (OCA)
- Lindsay Morgia (OCA)
- Members of the public

Meeting Commenced: 12:10PM

Welcome and Introductions

Ms. Mossaides welcomed the members of the board and the members of the public who attended the meeting. She told the group that we had a packed agenda, so it is possible we will need to limit the number of questions in order to cover all of the items.

Approval of Minutes from April 4th, 2019 Meeting

Ms. Threadgill asked for a motion to approve the minutes. Ms. Kaban offered a motion. The group approved the minutes without objection.

Update and Discussion re: IPAD Board Members Awaiting Appointment

Ms. Threadgill shared that the first parent had recently been appointed, Dawn Christie. She is working on a time to connect with her. Ms. Threadgill invited board members to reach out to Ms. Christie to welcome her to the group.

There are four remaining unfilled appointments: Senate Minority, Massachusetts District Attorneys' Association, a second parent representative, and a data systems expert. Michael Glennon has been representing the MDAA at subcommittee meetings but there has not been an official appointment. We had a representative from EOTSS, but that person left to take a position in another state. Ms. Mossaides said that the OCA is working with the appointment agencies to fill these vacancies as soon as possible.

Report out form Community-Based Interventions Subcommittee

Ms. Threadgill shared that in May, the CBI subcommittee discussed judicial diversion and diversion efforts in the probation department. Mr. Capasso and Chief Justice Nechem shared that the juvenile court has issued guidelines about judicial diversion. Ms. Kimberley Lawrence of Probation discussed the process for requesting assessments from the probation department. In June, this group will review the results of the referrer survey, which currently has 130-140 responses. The response to the provider survey remains low, so Ms. Threadgill again asked the board to share it or send her any ideas regarding distribution and outreach.

Report out from Childhood Trauma Task Force

In May, the CTTF heard presentations related to the specific types of traumas experienced by immigrant and refugee populations. At the June meeting, the OCA shared the results of the trauma screening/assessment/intervention survey. Ms. Threadgill will share the results with the full board. The next steps for this group are to 1) define the meaning of trauma-informed care with the goal of issuing statewide guidelines and 2) focus on identification and referral of children who have experienced trauma, especially for young children.

Report out from Data Subcommittee

The group reviewed the draft of the report from the data subcommittee, *Improving Access to Massachusetts Juvenile Justice System Data*. Ms. Threadgill reminded everyone that the data subcommittee had a specific mandate from the legislature. Because the report is due at the end of June, the group stuck to the information requested in the legislative mandate.

Overview

With the assumption that everyone had reviewed the report, the group discussed and accepted the main findings:

1. Lack of available data often impedes our ability to make data-informed decisions about policy and practice
2. Juvenile justice agencies face numerous barriers to improving data availability
3. There is a need for increased coordination of aggregate statistical data collection and reporting
4. Sharing aggregate data on a publicly available website would benefit justice system practitioners as well as the public

The board was asked to consider the feasibility of the OCA “*creating and annually updating an instrument to record aggregate statistical data for every contact a juvenile has with criminal justice agencies*” and of “*all offices and departments...using the instrument to record a juvenile’s contact.*” At the time, this is only partially feasible due to a lack of data and because some data is available, but not easily gathered. In this section, the report will also inform the legislature that agencies are not statutorily required to collect and report some of the data that they are requesting.

The report contains three primary recommendations:

- 1) The OCA should serve as central coordinator for juvenile justice system aggregate data
 - a) This recommendation says that the OCA should serve as the coordinator that collects aggregate data and will produce one public report
- 2) The OCA should develop a juvenile justice system data website
 - a) Website development is in progress. Ms Threadgill shared a mock-up of what a dashboard might look like with the group.
- 3) The legislature should consider policy changes to improve data availability
 - a) This section will list the missing data and what the legislature could do to address the issue.

Chief Kennedy clarified that summons and arrests are available via EOPSS data, but diversion data is not. Ms. Threadgill agreed, but noted that EOPSS has expressed concerns about the quality of the summons data at this point.

Ms. Brink said that the layout of the report is extremely helpful, and thanked Ms. Threadgill for the clear organization of the report.

Ms. Mossaides said that we will need to think about time frames for implementation with consideration for the procurement cycle, and how implementation will fit into a series of existing priorities. We will need to share the amount of lead time needed and the sequencing of the work.

Feedback

Ms. Mossaides said that the data group had already gone through the report page by page, and asked board members to share their concerns or request clarifications about the draft.

Ms. Kaban said that the report does not answer questions regarding outcomes, and does not indicate that it may take years for us to obtain outcome data. This should be said explicitly. Ms. Threadgill said that there is a bullet that mentions this, but we can add an additional sentence to make it clearer.

On page 12, Ms. Fadel asked for clarification on the meaning of “complexity of analysis” regarding the court data. Mr. Capasso responded and said that the court has tracked certain data, but not everything has been historically tracked. Collecting data can require changes to the system and changes in policy/procedure. They are implementing some changes now, such as data regarding child welfare. In addition, each department is using the database differently. There is also a cultural shift involved, as the juvenile courts have historically been very protective of juveniles’ data. The recent push for data is a big departure for the court.

Ms. Mossaides said that as we talk with the legislature, there will be more detailed questions about what it takes to collect and use the data. Should the legislature decide to mandate certain information? These are multi-step processes.

Mr. Capasso used the example of diversion to bring up questions about who should be responsible for tracking all diversion data. Does the court track it all? How does the information get fed to the court? Ms. Fadel said that she was not saying the court should do that. While diversion was just an example, Mr. Capasso said that the law is such that diversion is something that judges should know about.

Ms. Fadel asked if this is a policy issue, using the example of police diversion data by race and other demographic information. Who collects and reports the data are two different things. Ms. Brink noted that it is very difficult to track the same kid through multiple systems. If we want to follow individual kids, we need systems that can speak to each other. Ms. Mossaides said that the current system is not designed to track a child across systems. However, with aggregate data, we can identify general trends, resource issues, and geographical issues. Ms. Threadgill reminded the group that this report is about point-in-time aggregate data.

Ms. Threadgill requested a motion to approve the report with permission to make any technical edits necessary. Ms. Kaban made a motion to approve, seconded by Commissioner Forbes. There were no objections from the group. Ms. Threadgill said that

the data committee worked very hard on this report and gave helpful, thorough feedback, and thanked everyone for their efforts. Ms. Mossaides also thanked Ms. Threadgill and Ms. Morgia for their work.

Continued Discussion on Implementation Challenges

Ms. Mossaides said that for the next part of the meeting, Ms. Threadgill will review the pre-meeting materials, including the two memos received from the Chiefs of Police and Citizens for Juvenile Justice. A representative from each group will give a summary of their memo and then there will be time for questions. Ms. Mossaides will stop the conversation at 1:45PM to give enough time for next steps.

Ms. Threadgill said that she reached out to EOPSS for data on arrests of youth under 12. From there, she created a response chart that lays out behaviors, responses, and gaps, and reviewed this with the group. Incident type lists the types of behaviors that may be a concern. Area of concern lists the different things we may be worried about if the youth presents with any of those behaviors: harm to self or others, mental health issues, etc. Immediate response refers to immediate response for law enforcement. Challenges refer to actions to take if the short-term follow up does not work. The last column shows where the system is breaking down, such as the lack of authority to take certain actions and the limited availability of FRCs statewide.

Ms. Brink asked if this chart was written from the perspective of law enforcement. Ms. Threadgill confirmed that it is. It is meant to be a summary of the conversations the group has had about arrest authority. Ms. Mello said that it was important to state that this is a lot, and some of it may be outside of the role that law enforcement typically plays. As we think about this going forward, we will need to consider what kind of training police will need to understand their options and why. The document reads from a social work perspective.

Chief Kennedy also pointed out that many of these options may be available during the day, but not necessarily at night. Ms. Mossaides said that we can add time of day to the list of challenges.

Memo from Chiefs of Police Association

Chief Kennedy said that this memo reflects the perspectives of police officers regarding the changes in the criminal justice bill as they relate to juveniles. In terms of raising the age from seven to 12, there is concern about what to do regarding serious crimes committed by children under 12. They recommend changing the language so that children under 12 accused of serious crimes can be brought into court through a CRA, so the behavior is not criminalized.

Regarding school-based offenses like disorderly conduct, the police need a way to intervene and remove a child from a scene, even if the behavior is not criminal. Their suggestion is to amend the definition of delinquency to say that no child shall be adjudicated without first being offered diversion. This will help police address root causes of behaviors.

Another concern is that police do not want to send youth to detention if it is not needed. Previously when arresting a juvenile, juvenile probation would be contacted for an assessment to determine if bail should be set or the youth should be released. This cannot happen because probation has been removed from the process. The recommendation is to amend the language so that the magistrate can take over that role to serve as an independent party. If a 12 or 13 year old is brought in, there is nothing holding them, even if they pose a danger to themselves or others.

Ms. Mossaides asked if there were examples of 12 to 13 year olds. Commissioner Forbes said that they had some volume in overnight arrests, but he will check the data. Chief Kennedy asked when the non-secure facilities were closed. Ms. Brink said that the facilities were not closed, but they were changed after the 2012 CHINS reform. It is sometimes challenging to separate changes from the criminal justice reform law from CHINS reform.

Ms. Kaban asks what happens now in these situations. Chief Kennedy said that they are released to their parents. However, the concern is if it is a serious offense, they would need to be placed somewhere. Ms. Mossaides asked about circumstances where no parent is available. In this situation, DCF would be brought in. The lack of an after-hours system presents challenges for law enforcement.

A member of the public who is a defense attorney said that she has not seen or heard any examples of this situation, but appreciated the issue. She asked if DCF had seen such cases. Ms. Brink said that DCF can only intervene in cases of suspected abuse or neglect. Outside of that, DCF would not be involved.

Ms. Mossaides asked if there is this gap, and there is no tool available, what tool do we need and who is responsible for it? Commissioner Forbes said that for DYS to get involved, it would require an amendment. They have the capacity to respond, but there would need to be a clear process. Chief Kennedy suggested that the bail magistrate might be in the easiest position to take on the probation role. Police officers want a neutral party to make the call regarding whether or not to hold a child. Ms. Threadgill suggested that for next steps, the group should form a new working group about this issue.

Commissioner Forbes said that some of the detentions do take overnight kids. These numbers have decreased over time, and more recent decreases may be the result of the age

change from seven to 12. He said DYS has the data on this. He also said that we need to consider whether or not a child is DCF-involved, and that can be difficult to determine at 11PM.

A member of the public asked for clarification regarding whether or not school resource officers can remove a student, and if not, who in the school is able to remove a child if needed. Chief Kennedy said that school administrations do not want to put their hands on children. Ms. Mossaides suggested looking at restraint and seclusion data from DESE and see what we can learn based on school location.

Mr. Capasso said that the juvenile court has similar concerns regarding services as the police do. There are also concerns with the change in law regarding first offense.

Memo from Citizens for Juvenile Justice

Ms. Fadel introduced the CfJJ memo by reminding the group that the intent of the law is to prevent youth from entering the adult justice system. We are also looking for disparities in outcomes based on race, geography, and other demographics. Regarding children under 12, Ms. Fadel pointed out that the data we have so far is anecdotal, and we need to ask more questions to figure out why this is happening. Research demonstrates that the younger a child is at first arrest, the more likely it is that the child will drop out of school.

Ms. Fadel also stated that compelling services can sometimes do more harm than good. Using a public health lens instead can result in better outcomes. She also noted that in the report from the Child Sexual Abuse Task Force said that raising the age of jurisdiction presented an opportunity to intervene with youth who are presenting with sexualized behaviors. Ms. Mossaides noted that the data did not show that arrests were happening for this group of children, and that the challenge is the lack of services in the Commonwealth. The cases are not being prosecuted, but there were no services though the children's advocacy centers.

Ms. Fadel moved on to the issue of disproportionality. Research demonstrates that when there is a perception among youth that they have been treated unfairly, it increases the likelihood that they will reoffend. Whether or not a youth desists is related to a lack of respect for authority and not being given the opportunity to develop appropriately. Another common narrative is the assumption that parents will not comply. This pathologizes parents, and instead we should be asking about what parents need. There are also concerns with the proposed language from the police departments, as it uses police powers to compel participation in programs and does not address the question of what is a first offense.

Ms. Fadel reminded the group that the school-based sections of the new law requires that schools and police departments sign a memorandum of understanding to articulate the

roles and responsibilities of the officer. The Mental Health Legal Advisory Committee (MHLAC) did an analysis of this portion of the law. Matt Cregor from MHLAC said that the school-based provisions required three items: police can no longer arrest for disturbing school assembly, there must be an MOU between schools and police that states police cannot use their policing powers for school discipline, and data on school-based incidents. MHLAC requested 30 MOUs, and found that in a number of places, the law is not being implemented on paper. They are still awaiting data, but MCLAC is hearing about issues in Springfield regarding physical abuse.

Mr. Cregor said that often times, teachers and administrators do not know what to do, and they have become reliant on SROs to handle certain issues. The burden should be placed back on educators to handle disruptions. If a child is disrupting, finding an adult that they trust is the best way to de-escalate a situation. They are not reading the law as law enforcement can't get involved in safety matters, and the model MOU from the Attorney General's office addresses these concerns.

Ms. Mello echoed the issue about reliance on SROs, and asked if some of the issues regarding the definition of delinquency arose from school-based incidents. She also noted that we have not talked much about the role of education. Chief Kennedy said that their proposed delinquency definition was not related to school-based interventions. Officers do want to be able to intervene and remove a child from the scene if necessary.

Ms. Kaban said that anyone under the age of 12 would be deemed not legally competent to stand trial, and there would be due process issues. But in a school setting, the IEP process is about getting a child services. It is a whole other avenue for the group to consider. Schools should be taking on some responsibility, and SROs need clarity regarding their roles.

With 15 minutes left, Ms. Mossaides turn the conversation to next steps. Ms. Threadgill presented three items the group could move forward with:

1. The lack of clarity on language
2. Tracking implementation of the school-based reforms
3. What are our options other than arrest?

She suggested two new working groups to address questions 1 and 2, and recommended the CBI committee look at the third question.

Ms. Mello brought up issues in group care and other institutional settings, such as assaults on staff or runaways, that bring youth into contact with law enforcement. She suggested that these issues may be best addressed by the CBI subcommittee. Ms Brink asked about the nexus to criminal justice changes. Ms. Mello said it related to accountability and police feeling like they cannot do anything. Chief Kennedy noted that for runaways, if a child is

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noncompliant, they cannot bring them back to the program. The leverage that the courts had is now not available. Ms. Mossaides said this is something for the board to work through.

Ms. Fadel asked if the board should write a joint letter regarding the appointment of a second parent representative. Mr. Capasso suggested that if we write a letter, we should do it regarding all vacancies. Ms. Mossaides said that while we do want representatives from families, we may need to develop other methods of obtaining family input as well. The board should develop a process for family input, such as focus groups. Ms. Fadel asked if appointing PPAL to a formal role on the board would be helpful. Ms. Mossiades said that would require a statutory change. Ms. Mello said she was comfortable with the idea, but the group needs to do more in terms of parental involvement and diversity. Ms. Kaban asked if board members could suggest names of groups. Ms. Mossaides said that the OCA can pass on names to the governor's office. The group formally approve writing a letter regarding outstanding appointments.

Ms. Threadgill said she will reach out to board members regarding volunteers for the subcommittees. Ms. Fadel asked if outside groups could participate, and Ms. Threadgill said yes.

Adjournment: 2:02PM