

Office of the Child Advocate
Juvenile Justice Policy and Data Board
Community Based Interventions Subcommittee
Wednesday, September 25, 2024
12:30PM-2:00PM
Meeting held virtually

Subcommittee Members or Designees Present:

Kimberly Lawrence (Probation)
Stacey Lynch (DPH)
Lydia Todd (CLM)
Rebecca Brink (DCF)
Leon Smith (CfJJ)
Amy Ponte (CAFL)
Jamie Bennett (YAD)
Susan Gill-Hickey (DMH)
Thula Sibanda (DYS)
Laura Miller (MDAA)

OCA Staff:

Melissa Threadgill
Kristi Polizzano
Morgan Byrnes
Arianna Turner

Other Attendees:

Kathleen Bitetti (OSA)
Migdalia Nalls
Erin Stewart
Heather Hoi-Yi Ho
Michael Kilkelly
Katie Perry-Lorentz (DYS)

Meeting Commenced: 12:33PM

Welcome and Introductions:

Ms. Polizzano welcomed the attendees to the Community Based Interventions (CBI) Subcommittee virtual meeting. She welcomed members to introduce themselves.

Ms. Polizzano then introduced the agenda for the meeting, which centers around a discussion of the pretrial project draft recommendations.

Review and Approval of Minutes from the August Meeting:

Ms. Polizzano held a formal vote on the approval of the previous Community Based Interventions meeting minutes. Amy Ponte, Laura Miller, Kimberly Lawrence, Susan Gill-

Hickey, Leon Smith, Stacey Lynch, Thula Sibanda, and Lydia Todd all voted to approve the minutes. Rebecca Brink abstained. No one opposed.

The meeting minutes for August 28, 2024 were approved.

Ms. Polizzano then shared the pretrial phase “magic wand” poll results from last meeting, reviewing the “magic wands” that received the most votes as well as one that received several dislikes.

Ms. Polizzano welcomed questions on the poll results. None were raised.

Ms. Polizzano then shared the draft findings for the pretrial phase project, including:

1. Pretrial practice (setting conditions of release and cash bail) does not align with policy
2. There is a lack of shared understanding and conflicting legal guidance on when/if GPS should be used
3. There are vastly different regional practices at this stage leading to concerns about “justice by geography”
4. There are statewide disparities regarding who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance
5. There are youth placed on pretrial monitoring/supervision detained that could be better served in the community/without system involvement

Ms. Polizzano welcomed questions on the draft findings.

Members discussed the first draft finding, including the definition of “policy” in this context as well as the distinction between policy and statute.

One member suggested adding information about the lack of data available on the current use of GPS in the pretrial phase to draft finding 2.

Members then discussed the definition of “justice by geography” in draft finding 3. One member raised a concern about making sure to consider the unique conditions present in each county. Another member mentioned that “justice by geography” often refers to discrepancies in practices in similar counties, for example with differing rates of detention for misdemeanor offenses. Members also discussed the pros and cons of relating this finding to the need for expanded diversion services across the state. One member highlighted the importance of maintaining the opportunity for individualization of practice across counties, and another mentioned the potential unintended consequences of limiting the discretion of individual judges.

Members then discussed draft finding 5, highlighting the need to consider the victim's perspective as well community safety in deciding where a youth is best served during the pretrial phase. One member also mentioned the importance of building community-based options that exist between the options of releasing youth on personal recognizance and placing youth in detention.

Ms. Polizzano then shared an overview of the opportunities for improvement, including:

- Change how conditions of release (CORs) are set and what warrants a revocation
- Limit the use of GPS
- Divert more youth
- Limit the use of cash bail
- Increase data availability

Ms. Polizzano also shared the potential mechanisms for achieving each goal, including:

- Change statute
- Change agency policy
- Modify practice
- Add trainings

Ms. Polizzano then began reviewing each of the opportunities for change, beginning with “Opportunity #1: Change how conditions of release (CORs) are set” and mechanisms for that change, including:

- Modify law and/or agency policy to give additional guidance on condition-setting
- Implement juvenile court specific pretrial forms and/or procedures
- Trainings for court stakeholders on which cases need supervision, condition-setting for those youth, and which can be released on personal recognizance

Ms. Polizzano welcomed questions on Opportunity #1.

Members discussed the benefits and challenging of modifying the law, highlighting the risk that the implementation of changes may be unsuccessful and the need for trainings to accompany any statutory changes. Ms. Threadgill added that it may be beneficial to have guidance on how case law around the issue of conditions of release being tied to the offense should be implemented in practice.

Ms. Polizzano then continued to review “Opportunity #1: Change how conditions are supervised/what warrants revocation” and mechanisms for that change, including:

- Create a standardize graduated response system for pretrial violations of probation & standard “step downs” to decrease level of supervision

Ms. Polizzano welcomed questions on this graduated response system.

Members discussed their endorsements of the idea as well as the need to consider judges’ expectations during this process and the potential need for a statutory change to give decision-makers the tools they would need to implement this practice.

Members then discussed what types of conditions would fall in this system and for which offenses they would be applied.

Ms. Threadgill shared that one potential course of action would be establishing court guidance and training to build stakeholder buy-in to the graduated response system and then pursue any necessary statutory changes. One member added that starting with a change in philosophy can be an effective approach to changing practice.

Members then discussed how a graduated response system would operate within existing state systems with probation, district attorney offices, and judges. Ms. Threadgill shared that other states have implemented practices in which probation officers come to court and makes a recommendation to the judge of what adjustments to make to a youth’s conditions. One member added that training on positive youth development would be helpful in ensuring success with this graduated response system.

Ms. Polizzano then reviewed “Opportunity #2: Limit the use of GPS” and mechanisms for change, including:

- Modify law and/or agency policy to include GPS time constraints (modeled after California)
- Modify law and/or agency policy to include GPS case type constraints
- Only use when there is no less restrictive condition that would ensure appearance in court or protect an identifiable person from imminent threat from serious physical harm (modeled after Illinois)

Ms. Polizzano welcomed questions on Opportunity #2.

Members discussed improvements that could be made to the current use of GPS pretrial, including establishing time standards, considering the impacts that GPS could have on a youth’s

ability to participate in school and prosocial activities, and establishing exclusion zones rather than ordering home confinement.

One member raised the concern that if GPS use is limited too much, detention rates may increase. They also suggested improvements to the technology used for GPS.

One member mentioned that GPS coupled with home confinement has increased since the COVID-19 pandemic and that it was previously coupled with a curfew. They also highlighted the challenges of having a youth taken off of GPS and suggested setting time standards for GPS use. Another member mentioned the mental health toll and social stigma that often accompany GPS use with youth.

Ms. Polizzano then reviewed “Opportunity #3: Divert more youth” and mechanisms for change including:

- Divert youth pre-arraignment by expanding opportunities for state diversion and increase community-based alternatives
- Increasing awareness of community-based alternatives in lieu of detention/probation
- Divert from detention by expanding placement options and probation tools

Ms. Polizzano welcomed questions on Opportunity #3.

One member mentioned the benefits of implementing diversion pre-arraignment and the successes of the Massachusetts Youth Diversion Program (MYDP). Ms. Threadgill added that the MYDP will be expanding into more counties in the next year and has secured increased funding to do so in the FY25 budget.

One member mentioned that youth should not be penalized if a diversion service or program has a waitlist and cannot accept the youth at the time of application.

One member discussed the importance of spreading awareness about diversion opportunities as well as data about the effectiveness of community-based services. One member added that it is important to require diversion programs to collect data on their work.

One member shared the importance of including families early on in the diversion process and referring families to Family Resource Centers to ensure they have the needed resources to support their youth.

One member raised the need for district attorney offices to be fully resourced and staffed to run diversion programs. Another member discussed a pilot program run by Probation that supports

parents who are in crisis and need services for their children and suggested that a tool be created for courts to feel empowered to divert cases in similar ways.

Ms. Polizzano then previewed “Opportunity #4: Limit the use of cash bail” and “Opportunity #5: Increase data availability,” both of which will be discussed in next month’s meeting.

Next Steps

Ms. Polizzano shared that the next meeting of the CBI subcommittee will take place virtually on October 21 at 11:30AM.

Closing Comments:

Ms. Polizzano thanked the members for their participation and adjourned the meeting.

Meeting adjourned: 1:57 PM