

TASK FORCE ON CROSSOVER YOUTH DATA AND INFORMATION SHARING

MEETING NOTES

January 31, 2017

10:00am – 1:00pm

Arizona State Courts Building, 1501 W. Washington

Phoenix, AZ 85007

Conference Room 345 A & B

Chair: Hon. Craig Blakey, Ret.

I. Meeting Called to Order at 10:00am

II. Welcome

III. Roll call

Present: Honorable Craig Blakey, Ret., Amy Stuart, Angela Kircher, Cory Lustig, Diane Culin, Elaine Maestas, Ellen Grein, Eric Meaux, Hon. Joan Wagner, John Jackson, Dr. John Vivian, Lauren Lowe, Leslie Cooper, Lillian Downing, Hon. Margaret McCullough, Hon. Pete Hershberger, Sandra Diehl, Sarah Murillo, Shelley Curran, Sloane Steele, Steve Selover, Susan Hallett, Teresa Manning, Therese Martin, Regina Rodriguez and Rob Shelley.

Not Present: Byron Matsuda, Casie Lightfoot, Diana Hegyi, Hon. Kathleen Quigley, Molly Dunn and Zarina Aguilar

IV. Approval of the December 1, 2016, Meeting Minutes

V. Review of Draft Recommendations – Group Discussion

Juvenile Probation Recommendations:

Judge Blakey asked group if any other counties, outside of Maricopa County, felt these recommendations needed to be changed.

- Lauren Lowe (DCS) – Stated that they are already sharing information with Probation without a court order.
- Concern was raised that there is not a timeline included for receiving the history of the child from DCS or Probation.
- Judge McCullough (Coconino County) was concerned that the Regional Behavioral Health Authority (RBHA) will not provide information without a court order.

- Shelley Curran (Mercy Maricopa) shared that, if DCS is guardian of child, then the RBHA is able to share information without a court order.
- Lauren Lowe (DCS) shared that DCS is able to share child welfare information without a court order.

Judge Blakey asked if there should be a recommendation to the Chief Justice for a statute or a court order to address this issue.

- Lillian Downing (Pinal County) shared that Judges have the ability to combine cases so decisions can be made and orders issued on more than one case. Pinal County has an integrated Family Court and this helps with sharing information.
- Lauren Lowe (DCS) shared that DCS is unable to share HIPAA related information without being the legal guardian of the child.
- The Recommendation needs to be clear what “dually-involved” entails.
 - Angela Kircher (Coconino County) said that the categories are specific to the type of youth but she is concerned about the request to be able to share information without a court order or consent of the legal guardian.

Judge Blakey asked if HIPAA has any leeway for the state legislature to enact laws for a more proficient provision of information.

- Therese Martin (AGO) – There is a “required by law” provision that states there is a requirement that a provider covered by HIPAA provide protected health information to someone else that meets the “required by law” provision. The difficult question is that, when this conflicts with federal law on substance abuse or behavioral health, it’s unclear which takes precedence. It would be recommended that a legal opinion be sought to clarify.
 - Therese Martin (AGO) advised to check with Georgetown University what other states are doing with this provision. Concern that this is Federal Law and unsure how amendable it is.
 - Diane (Santa Cruz County) stated that there is an Information Sharing Committee with Georgetown University. There is also information on the Wiki website.
- Judge Wagner (Pima County) suggested a “decision tree” to help make it clear who has legal responsibility for the child and, in turn, is responsible for acquiring consent to share HIPAA related information.
- Judge McCullough stated that there is case law that parents still have rights to make healthcare decisions for their child.
 - Lauren Lowe (DCS) – There is uncertainty as to whether residual rights case law trumps the right to share information. DCS policy is to work with the parents regarding their child’s healthcare but DCS will seek a court order if necessary.
- Shelley Curran (Mercy Maricopa) stated that it would be helpful to providers if there was a statewide system that let them know where youth are in various systems. This does not

have to state what their diagnosis is or what treatment they are receiving – that can be shared at the CFT and releases of information (ROI) can be signed. But they need to know who should be at the CFT.

- Lillian Downing recommended that, when a youth is in DCS custody, it would be helpful to include the statutory timeframes for behavioral health services and services under Jacob’s Law.

Judge Blakey asked what would happen if the case were a “diversion” case.

- Angela Kircher (Coconino County) said that, at intake, they speak with the parents to determine historic or current involvement with DCS. She doesn’t feel psychological evaluations are necessary to recommend services but, if the child is placed on probation, evaluations may be more important.
- Elaine Maestas (Mohave County) stated that, in a smaller county, it is easier to share information with other providers since everyone uses the same providers. They have the parent sign a dual ROI that gives them the ability to share information with the RBHA and vice versa.
- Angela Kircher (Coconino County) suggests adding this recommendation to JPO’s policies and procedures. At the time of intake the parent would sign the ROI. If DCS or the RBHA becomes involved at a later stage, Juvenile Probation (JPO) would ask the parent to sign a waiver.
- Judge McCullough (Coconino County) shared that, if child is dually adjudicated, the AOC advised adding to the dispositional minute entry that the probation department is authorized to share the social file information with any person providing treatment, DCS, or education. It might be good to consider making this an Administrative Order.
- Can JPO can share the social file without a court order? Supreme Court Rule 123 discusses handling the disclosure of records for treatment for which the court is covering the costs.
- Sandra (Coconino County) shared concerns about JPO sharing social file with DCS if those files might include psychological or psycho-sexual evaluations.

Education Recommendations:

- Therese Martin (AGO) commented that the goal is for agencies to share information electronically. Currently ADE and DCS are working on implementing new information management systems.
- Rep. Hershberger (FosterEd) shared that an MOU has been executed allowing Pima County to work with the Department of Education (ADE) to use the list of children receiving Free and Reduced Lunch, to identify foster children at a particular school. A similar system must be developed for all schools to acquire this information since Title 1 schools are the only ones that receive the Free and Reduced Lunch Program. Every

Student Succeeds requires Arizona to report out on educational obtainment, test scores and GPA of foster children.

- Ellen (DCS) stated that, at one point, the ADE was able to acquire foster children's academic grades and scores from all schools within the state. A bigger issue is for DCS to be able to connect and match students.
- Lillian Downing (Pinal County) shared that it would be important for JPO and DCS to be able to identify where youth are enrolled, to identify a contact person at the school, and to have this person participate in CFTs.
 - Rep. Hershberger (FosterEd) shared that the Every Student Succeeds Act (ESSA) requires that there be a state point of contact for education and child welfare. The DCS contact is Beverly Kroll. She has introduced herself via email to all Arizona local education agencies (LEAs) as the DCS Point of Contact and has informed them that it is their responsibility to establish a similar point of contact at their LEA.
 - Therese Martin (AGO) added that another important aspect of ESSA is the school the child will attend. Advocates for the child get together and decide what is in the best interest of the child.
- Rep. Hershberger (FosterEd) recommends that education issues should be included at the TDM.
- Per 20 U.S.C. § 1232g and 34 C.F.R. 99.31, FERPA allows for DCS gathering education information.
- There needs to be training for all interested parties.
- There needs to be a central repository for all contacts.
- Judge Blakey suggested a recommendation that, in order to assist children aging out of foster care, jurisdiction should be extended to 21 years of age.
- Therese Martin (AGO) inquired about the success Pima County has had working with educators. Rep. Hershberger (FosterEd) said they did participate but there was always limitations, i.e., computer in classroom or time to get online. Therese Martin (AGO) does not think having educators be involved in face-to-face meetings is an obtainable goal and we need to consider that.

- Therese Martin (AGO) inquired about the changes being made to the Information Sharing Guide. Steve (Governor's Office of Youth, Faith & Families) stated that the recently updated Information Sharing Guide has been vetted through the Attorney General's Office (AG) and is currently being reviewed by the AOC, DCS and the Arizona Department of Juvenile Corrections (ADJC). John Jackson (Pima County) referred to the work King County, WA did with their information sharing matrix and how helpful it was. Steve will provide information to Rob to share with the group.

Behavioral Health Recommendations:

- Shelley Curran (Mercy Maricopa) stated that there are protocols already in place with sharing information with DCS and JPO. Instead of rewriting protocols, maybe reference back to them. They are available on the RBHA websites.
- John Jackson (ADJC) stated that CFTs mainly involves the child, a family member or guardian and the rest of the attendees are professionals. This is not a true CFT. There should language included affirming what a CFT should be.
- It was recommended that there should not be a timeframe on the entire CFT process.
- A concern was shared that the RBHA has other networks underneath them and just identifying the current and/or past providers can be a challenge. There should be a point of contact for each RBHA to help discern this.
- Suggestion to make DCS part of the Health Information Exchange (HIE).
- Judge McCullough (Coconino County) is concerned that, in Coconino County, attorneys for children and parents frequently do not receive invitations to the CFT or, when present at the CFT, they are instructed not to talk.
 - Lauren Lowe (DCS) explained that, at one point, there was a misunderstanding in regards to guidance on Team Decision Making (TDM) meetings. Attorneys are welcome at the TDM, they just need to refrain from asking the case manager legal questions.
- Lillian Downing (Pinal County) expressed how important it is for all interested parties to receive training regarding their role throughout the process.
- Shelley Curran (Mercy Maricopa) will provide to Rob a link to the HIE so that he can share with the group. Different users have different access. There needs to be a discussion about developing a way for justice partners to have specific access to the HIE based on whatever the business associate's agreements would be. That way justice partners could enter and look up information, the name of the agency(s) for which they would require an ROI. They are able to do this because of an Administrative Order.
 - A comment was made that the problem is they are unable to get anything without a ROI.
- There is an agency (unsure which agency) that utilized a federal grant to communicate with agencies to discuss their information needs, HIPAA requirements, and what kind of information they would provide to the HIE.
- Judge Blakey asked about a statute that mandates behavioral health to dispose of records within 10 days without secondary dissemination but there still would be a HIPAA problem.
 - This would definitely be an issue with substance abuse information. This type of information required a specific ROI or a court order.
- Shelley Curran (Mercy Maricopa) Shares that, if it is just the name of the provider that is being requested of the RBHA, their Administrative Order requires them to provide real time access to the regulator portal for the court.

- There was some discussion about a kinship locator and it was not clear why this service was provided by Behavioral Health.
- Judge Blakey asked if there were any concerns regarding the recommendation for Behavioral Health to share information within 7 days.
 - Lillian Downing (Pinal County) asked about what specific information is to be shared.
 - It was shared that JPO may require behavioral health information and approval in order to successfully identify a placement and move the child from a detention setting.
- Therese Martin (AGO) requested that, at the next meeting, the information about the HIE (i.e. who has access, who inputs information, etc.) be available or, if not, that the group consider it a recommendation.
 - Shelley Curran (Mercy Maricopa) will identify someone to attend the next meeting to discuss the HIE.
- Sarah Murillo (Maricopa County Juvenile Probation) will check into an information sharing system and will report back to the group.

Judge Blakey asked if group is interested in a portal/website/independent contractor available statewide that would produce a synopsis of the child's information.

- Amy (AOC) suggested that the first step is to be able to identify the child before being given the ability to share information. AOC was working with DCS to set-up a database sharing system but there were delays and the data sharing agreement expired. They are currently working with the agency to re-start this process.
 - It is important that we use consistent terms throughout the state.

VI. New Business – Preparation for Next Meeting

Based on the small group and larger committee discussions that have occurred over this and previous meetings, the following will draft recommendation language for the committee to consider:

- Rep. Hershberger, Leslie Cooper, and Therese Martin will work together on the Education Recommendations.
- Shelley Curran and Sloan Steele will work together on the Behavioral Health Recommendations.
- Chief Meaux, John Jackson, Angela Kircher, Elaine Maestas, and Sarah Murillo will work together on the Probation Recommendations.
- Lillian Downing, Ellen Grein, and Lauren Lowe will work together on the Child Welfare Recommendations.

- Judges McCullough, Quigley, and Wagner will work together on Court related recommendations that would help parties obtain the needed information.
- Judge Blakey will work with AOC staff and Georgetown University.

VII. Call to the Public – No issues raised.

VIII. Adjournment at 2:00 pm