

Community Taskforce to Review Youth Corrections Systems Standards

Monday, March 21, 2022 at 4:30 pm

Taskforce Members In-Person

Larry Burks, Sr.
Holly Osborne
Jazmine Rogers
Lamont Anderson
Taben Azad
Monique Garcia
Debbie Kennedy
Steve House
Tracey Mason, Sr.
Naquela Pack
C. Richard Kirkendoll
Yeni Telles

Taskforce Members via Zoom

Mike Fonkert
Marquetta Atkins
Annmarie Arensberg
April Terry
Valerie Leon
Rhonda Lewis

Resource Members

- Kristin Peterman – Via Zoom
- Hope Cooper – Via Zoom
- Steven Stonehouse
- Paul Duff
- Shantel Westbrook

Purpose of the Task Force: To review and recommend preferred system improvements after the incident and death of Cedric Lofton

Goal of the Task Force: Develop recommendations for improvements and changes to the existing system standards and performance of Department of Children and Families (DCF), law enforcement, and youth corrections programs

Today: Hear from Ascension/St. Joseph and Sedgwick County District Attorney to better understand how to improve systems for foster children going through a mental health crisis

1. Updates

- KORA requests – include names, emails, other contact information?
- Public comments – emails

2. Presentation

- Robyn Chadwick, Ascension Via Christi St. Joseph hospital president and executive leader for its Behavioral Health Services
- Have 101 private rooms in behavioral health unit which encompasses the sixth and the seventh floors.
- Have services for adolescents ages 12 to 17.
- Adults 18 and older 50 beds for adults and 25 beds for senior behavioral which generally is persons living with neurocognitive disorders dementia things like that.
- 12 bed medical psych unit, so if we have a patient who has a psychiatric issue but also happens to be dependent on dialysis or is diabetic and needs IV insulin we can take care of patients in that medical psychiatric unit
- Garcia asked for an update from the En Banc meeting presentation by the Mental Health and Substance Abuse Coalition (MHSAC)
- Chadwick states MHSAC started about five years ago, and consists of Sedgwick County Sheriff's Department, Wichita Police Department, Sedgwick County District Attorney's Office, COMCARE Community Crisis Center, Ascension Via Christi, HumanKind, United Methodist Open Door ministries, Substance Abuse Center of Kansas, USD 259 and other organizations came together to work collaboratively to develop a strategic plan trying to tackle mental health and substance abuse issues in the community
- The Coalition recently hired an Executive Director and has a 5-year strategic plan, and an executive board that meets monthly
- Osborne recommends the taskforce member view the presentation from MHSAC at the Wichita/Sedgwick County En Banc meeting
- There is a Mental Health and Substance Abuse Coalition website and a 55 page report presented with recommendations to the City Council and County Commissioners
- St. Josephs is required by federal law called EMTALA Emergency Management Transfer and Active Labor Act that any person who presents to emergency room will be seen by a physician. Will have medical screening evaluation and if they meet in-patient criteria, they will be admitted into our facility.
- With mental health population sometimes the wait time can be up to 24 hours for a bed and that is a challenge, even with 101 beds.
- St Joseph's works closely with KVC to take kids who are 11 years and younger – St. Joseph's cannot admit them, but even works with KVS to admit the 12 to 17 year olds if wait time is excessive.
- Workforce is the biggest issue
- Pack asks are there any reasons or policy, you have that you would not admit someone? Chadwick responds: No
- Rogers asks on average what is the frequency of patients brought in by EMS and WPD daily? Chadwick responds: Approximately 15 - 20

- Telles asks if there are any MOUs between law enforcement and St Joes? Chadwick responds: Not that I am aware of
- Chadwick states anyone that presents to emergency room regardless of how they arrive. The law says if they're basically within 250 feet of our emergency room door, we are required by law to see them.
- Chadwick states St. Joes meets regularly with Chief of Police, Captains of precincts - meeting held at St Joe every other month
- Chadwick speaks to the hospital's obligation to find a safe discharge plan
- Chadwick describes the admissions process – patient sees registration clerk, if there is an adolescent find out who is the responsible adult with them, find out what the chief complaint is, taken into triage they are seen by an advanced practice provider to find out what is the presenting problem, from triage if it is not something that can be easily resolved in triage, e.g. sore throat or if it is mental health issue, then they are assigned to a room and seen by a physician or LSCSW licensed clinical social workers,
- Chadwick states because of workforce issues they do not have a LSCSW 24/7.
- States person always admitted if the person presents with suicidal ideation or homicidal ideation or has already attempted to hurt themselves in some way
- Leon asks what is the protocol around treating that individual or providing some type of service or a mental health service for that person who is not suicidal or homicidal?
- Chadwick explains severe depression meets criteria, someone who is psychotic, or delusional, someone who is having auditory or visual hallucinations might not be homicidal or suicidal would be admitted.
- Consider if it is a safety concern to discharge them without a plan for adequate follow up, then might admit and keep them
- Chadwick states they ask the question - Do we have a safe plan for this person in front of us to discharge from the hospital whether that is from the emergency room or from an Inpatient bed.
- Chadwick discusses the consent to treat form and ways authorization can be given

Marc Bennett, Sedgwick County District Attorney

- Bennett states regarding stand your ground;
 - In 2010 the KS state legislature passed the Stand Your Ground law, which is a series of statutes
 - What the Supreme Court calls the linchpin of that series of laws is what we call self-defense immunity, which is a state statute
 - If you're acting in self-defense, you're immune from prosecution

- 21.52.31: If a person is using force, they are immune from being arrested, prosecuted, or civilly tried for the use of such force unless the person they're doing it against is a law enforcement officer
- Self-defense had been on the books before and stand your ground was a nationwide effort among many states to pass this type of legislation
- There was not a lot of guidance when the law came out
- Over time, cases have determined that stand your ground is appropriately raised before trial/preliminary hearing
 - Sedgwick County uses a preliminary hearing rather than grand juries.
 - Persons charged on a formal complaint information with an affidavit from the officer
 - The defendant, the person who is accused, appears at preliminary hearing where a judge gets to hear the evidence and accused represented by counsel, and cross examination occurs
- Courts still wrestling with question of whose burden of proof is it on stand your ground immunity.
 - Is it the state or the defense's burden to show they were acting in self-defense?
 - Unsettled by legislature
 - Effort to use additional cases decided by courts for additional guidance
- Stand your ground is what the Supreme Court has come to call all these laws, but it really means self-defense immunity: if you are acting in self-defense, you are immune from prosecution, cannot be prosecuted
- Bennett discusses cases pertaining to stand your ground
 - Those are the types of cases we're dealing with when it comes to guidance from our court of appeals
 - You can't be arrested, you can't be prosecuted
 - A prosecutor must rebut, overcome a claim of statutory immunity before a case can go to trial
 - Appeal and Supreme courts telling us, very clearly, this is a right which our state legislature has deemed important enough to statutorialize
 - We are not supposed to charge people who are acting in self-defense, which puts us in a very difficult position at times
 - DA Bennett discusses some potential recommendations to amend the statute and challenging questions
- Mason asks when it was established that the four workers were no longer in fear of their life and if there is anything about four people in the statutes.
 - Bennett replies when the handcuffs are placed on at 5:08 and that according to the statutes, if someone acts in self-defense you're immune from prosecution

- Bennett states, his role is to determine if he can prove someone committed a crime and that he has to be able to overcome stand your ground immunity with evidence
- Bennett suggests that if recommending changes to stand your ground statutes not to go too narrow or specific
- Bennett said he was asked to provide recommendations and among those, said it raises the question, does it make any sense to hand off one kid that it took six adult cops to handle out of the scene and bring him in and hand him off to one intake person?
- Rogers asks, does stand your ground specifically name juvenile corrections officers
 - Bennett replies, no one is specifically named in the statute, but law enforcement are named as someone you can't do it against
- Rogers asks, why did you decide not to bring forth homicide charges for either intentional knowing or reckless?
 - Bennett replies, I'd have to prove that they set out to intentionally kill him and that they collectively formed the same intent amongst the four or five of them, and there is no evidence of that
- Bennett states, every set of cases is decided on its own facts
- Bennett states, the point of stand your ground immunity says you shouldn't be charged in the first place to ever see that jury
- Regarding making changes, Bennett asks how do we handle, how do we treat, how do we address mental health crises in this community
 - Should the police have known they could have taken this young man to a mental health facility?
 - Why were the officers not all on the same page?
 - What do you do when you have a young person that says they are not going to kill themselves but you can tell they're still in a mental health crisis
 - What do we do with them
 - Do all officers know that?
 - Bennett states, yes, it can always be better understood
- Pack asks a question about other options present that can be used at the time and case law regarding positional asphyxiation
 - Bennett states, fundamentally, criminal cases get decided on the criminal act and the mental state
 - Bennett makes a distinction between negligence (knowing better) and pre-meditation
 - If you know something and disregard it and it is still not your intent to kill, there is no negligent homicide charge in the state of KS
 - Kansas as a state made the decision we don't charge people criminally for negligence - that is where civil courts come in and you can sue people for monetary damages
 - We don't hold people accountable criminally for negligent acts
 - Bennett states, we need more options, help, training, and staff

- Bennett clarifies, the law is not intended to protect police officers who were breaking the law, but when they're acting in good faith you're not allowed to fight back
- Bennett states, the police arrest and book somebody, police don't charge someone
 - In KS, a felony has to come with a long-form complaint that states the nature of the charges
 - 6th amendment applies at this point/attorney, and rights applied at this point
- Bennett states, for the previous 10 years, we filed around 3,200 cases in criminal adult court, 800-1000 juvenile cases, 4,000 felony cases.
 - Out of 8-9000, only half get charged
 - If I'm going to make a decision not to charge, usually don't have a press conference
 - I made the decision to have a press conference and write a report in this case, to explain things and answer questions from the media
 - Bennett feels he owes it to the community to explain, for clarity on what happened and why it happened.
- Bennett states he's had discussions with the disciplinary administrator for the Bar associated, and explained why he felt the need to have a press conference and they've allowed him to do it

3. Draft recommendations: Timeline and Process

- Timeline
- March 28 DCF and 911 Recommendations
- April 4 WPD and JIAC Recommendations
- April 11 WPD, JIAC and Legislative Agenda Items
- April 18 Review of DRAFT Recommendations
- April 25 Final review of report
- Systems
- Homework
 - Review and identify – “not moving forward”
 - Indicate where more clarity is needed
 - Consider whether the recommendation is short- (within 6 months) mid- (7 to 18 months), or long-term (more than 18 months) priority

4. Next week

- Homework review
- Recommendations for Foster Care + Mental Health + 911
- Next Meeting March 28, 2022.