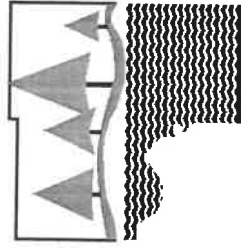


Juvenile Out of Home Providers

Grand Rapids Police Captain Andy Morgan & Captain Kevin Ott

ICSO Investigator Mark Greiner & Matt Bothma

Child Protection Investigator Samantha Tarbuck & Dawn Magnusen



Purpose of Presentation

- Better understanding of LE's decision making
 - Parents / Guardians
 - Out of Home Service Providers
 - Schools
 - Hospitals
 - Better educate LE on existing case law
- Open lines of communication between all community partners

Topics of Interest

- Police Action in regards to a Juvenile CFS
- Juvenile Holds placed by Police
- Juvenile Transports
- Practice of “Cite and Release”
- “Least Restrictive” Placement
- Mandated Reporting

History

- **Approached Itasca County Attorney Matti Adam**
 - Met with assigned Assistant County Attorneys John Kempe and Jake Fauchald
 - County Attorney's Office issued an August 16, 2022 Memo addressing and providing case law citations regarding topics
 - MN Rules of Juvenile Delinquency Procedure 5.03
 - Laws MN 260B
 - Case Law
- **Identified and Approached Partners with common Interest**
 - Itasca County Social Services
 - Itasca County Sheriff Department Investigators
- **Identified Appropriate Area Providers**

County Attorney Memo

- “it is important to determine the extend to which law enforcement can / should take action” when responding to calls for service involving a juvenile
- “ ... applicable rules dictate that a juvenile **should not** be detained unless there are compelling reasons to do so.”
- Memo then goes on to a four-part matrix identifying issues and priorities that LE should consider when navigating appropriate LE action

FIRST

- Law enforcement have “broad discretion” to release the juvenile before a detention hearing if less restrictive measures will be “adequate” to ensure public safety and the welfare of the child. (MN Rule 5.03 subd. 3)
 - The rules grant LE the ability to “cite and release” juvenile violators
 - Because MN law requires that a juvenile suspect remain in the “least restrictive setting”, cite and release **should always be the first consideration.**
 - MN 260B.181 subd. 2
 - Out of Home providers should be reminded that because there is a **presumption** that the juvenile should remain released, that the household / facility itself may need to take appropriate action to isolate / discipline the juvenile to prevent further misbehavior.

SECOND

- The applicable rules recognize a handful of factors that LE must identify before taking a juvenile into custody (MN Rule 5.03 subd 1, subd 2)
 - A juvenile can be detained if it is determined that
 - Danger to themselves or others
 - Will not appear for court hearing
 - Will not remain in the care or control
 - Health or welfare in immediate danger

SECOND continued

- Additional factors that weigh in favor of detention
 - Charged with arson, assault, criminal sexual assault or prostitution
 - Accused of a “presumptive commit” felony or a felony involving a firearm
 - Already has pending felony charges
 - Prior delinquency adjudications and is placed out-of-home already
 - History of failing to appear

• EVEN IF MULTIPLE FACTORS ARE PRESENT, LE STILL HAVE DISCRETION TO CITE AND RELEASE (if appropriate under the totality of circumstances) MN Rule 5.03 subd. 3

SECOND continued

- **EVEN IF MULTIPLE FACTORS ARE PRESENT, LE STILL HAVE DISCRETION TO CITE AND RELEASE (if appropriate under the totality of circumstances) MN Rule 5.03 subd. 3**
 - If an officer believes that the caregiver has the ability to adequately address the underlying concerns regarding a particular juvenile, the juvenile should remain release even over the objection of the caregiver / foster home / treatment facility.

THIRD

- Focus on the immediate allegations when deciding whether to detain and charge
 - Past unreported events should be recognized as uninvestigated and unproven
 - “Spreigl Evidence”

FOURTH

- If there is disagreement between LE and the out-of-home care provider regarding a particular juvenile individual, consider getting the assigned social worker involved
 - Identify placing authority
 - Parent / guardian is placement authority, they are primarily responsible for the ongoing placement of the juvenile
 - Social worker is involved, they are primarily responsible for the ongoing placement of the juvenile

Limited Availability of Placement

- Social Services has an inability to place children in a residential setting independently
- There is a difference between a shelter facility and a residential facility
- The following are ways in which a social services agency can assist in placing a youth at a residential setting:
 - Voluntary placement agreements
 - Court orders through a delinquency file not a CHIPS action
 - Recommendation from a 35-day evaluation
 - QRTP process

Mandated Reporting

- Mandated reporters are professionals who work with children and families and are in key positions to help protect children from harm. Minnesota law requires professionals and their delegates who work with children to make a child protection report if they know of or have reason to believe a child:
 - Is being neglected or abused, or
 - Was neglected or abused in the preceding three years
 - Mandated reporters include professionals and delegates in the following fields: Healthcare, Mental health, Social Services, Child care, Education, Law enforcement, Guardians ad litem, Clergy, Probation and correction services
 - If anyone suspects that a child is being abused or neglected, they cannot shift that responsibility to a supervisor, or to someone else in an office, school, clinic or licensed facility. They alone are required to make a report to the responsible social service agency
 - Anyone who is required to report known or suspected abuse or neglect and fails to do so is guilty of a misdemeanor
 - The inconvenience of reporting is offset by a simple fact: The action taken may save the life and spirit of a child and provide a family needed support.