

Colorado Commission on Criminal and Juvenile Justice

Pretrial Release Task Force

Minutes

January 9, 2018 1:30PM-3:30PM
710 Kipling, 3rd floor conference room

ATTENDEES:

CHAIRMAN

Stan Hilkey, Dept. of Public Safety

TASK FORCE MEMBERS

Jennifer Bradford, Metro State University of Denver

Steve Chin, Mesa County Pretrial Services

Bo Zeerip, District Attorney 21st Judicial District

Clifford Riedel, Larimer County District Attorney

Valarie Finks, Victim Services, 18th Judicial District

Greg Mauro, Denver Community Corrections

Monica Rotner, Boulder County Community Justice Services

Mike Garcia, Division of Probation Services

Bill Kilpatrick, Golden Police Department

Maureen Cain, Criminal Defense Attorney

Mindy Masias, State Court Administrator's Offices

STAFF

Richard Stroker/CCJ consultant

Kim English/Division of Criminal Justice

Peg Flick/Division of Criminal Justice

Germaine Miera/Division of Criminal Justice

ABSENT

Doug Wilson, Public Defender's Office

Kirk Taylor, Pueblo County Sheriff

Charles Garcia, CCJJ At-large representative

Joe Salazar, Representative, House District 31

Lang Sias, Representative, House District 27

ADDITIONAL ATTENDEES

Kathy Livornese, 4th Judicial District

Aubree Cote, Denver Pretrial Services

Joe Thome, Division of Criminal Justice

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion:</p> <p>Task Force Chairman Stan Hilkey welcomed the group, reviewed the agenda and requested any additions or corrections to the minutes. Seeing none he asked for a motion to approve the minutes. Cliff Riedel made a motion to approve the minutes and Monica Rotner seconded the motion. The minutes were unanimously approved.</p>
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<p>Issue/Topic: Recap / December meeting outcomes</p>	<p>Discussion:</p> <p>Commission consultant Richard Stroker summarized the December meeting outcomes as follows:</p> <ul style="list-style-type: none"> • Last month the Task Force received a presentation from researchers at the University of Northern Colorado on an analysis that they’re beginning regarding the CPAT. • The Task Force provided researchers with a few ideas about things to consider as they move forward with their initiative. • The researchers will report back to the Task Force in a few months with an update on the status of their assessment and any preliminary conclusions. • The Task Force also received updates from the four Working Groups on their progress. • Another important topic discussed last month that should be held up as a ‘truth’ about pretrial services is that when efforts are made to contact people prior to their court appearance date the likelihood of them appearing increases significantly. This is something that should be reflected in forthcoming recommendations.
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<p>Issue/Topic: CCJJ Sunshine Law / Discussion outcomes</p>	<p>Discussion:</p> <p>Stan reminded Task Force members that during the December meeting the issue raised about whether Working Group meetings are open to the public. Colorado’s Sunshine Law states that all meetings of two or more members of any public body, where any public business is discussed, must be open to the public - but it was unclear whether this law applied to just task forces or to working groups as well. Stan raised the question at the full December Commission meeting to gather feedback from Commissioners about their interpretation of the law. The Commission agreed that while the law applies to the Commission and the Task Forces (because the Commission is the public body and because there are always at least two Commissioners present at those meetings) – it would not apply to Working Groups as those typically only have one Commissioner in attendance.</p>
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<p style="text-align: center;">Issue/Topic: Local update – Denver Pretrial</p> <p style="text-align: center;">Action:</p>	<p style="text-align: center;">Discussion:</p> <p>Greg Mauro introduced Aubree Cote, Denver’s Pretrial SMART coordinator and explained that she volunteered to provide information to the Task Force about Denver’s use of assessment tools and lessons learned. Aubree presented a PowerPoint which can be found on the Commission website at www.colorado.gov/ccj/ccj-cPRTF and discussion points are as follows:</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • Denver started using an actuarial tool (the Colorado Pretrial Assessment Tool, CPAT) in 2012, in line with the enacting of Colorado’s revised bail statute. Denver also started using the Ontario Domestic Abuse Risk Assessment (ODARA) for domestic violence cases, which predicts the likelihood of a defendant committing a domestic violence assault in the future. • Denver also implemented a risk informed supervision matrix. • In 2014 Denver was one of three sites in the U.S. to be selected to receive three years of funding to look at pretrial practice from a system lens. • In 2017 over 30,000 in custody arrests were made by the Denver Police Department and more than 12,000 bond reports were provided to the court by pretrial. • The current average daily population for pretrial supervision is 2,369. • Denver experienced an 18% increase in felony filings in 2016 which has continued to increase in 2017 by an additional 9%. • While the number of case filings continues to rise, distributions within the CPAT risk categories have remained consistent. • The bond report contains the risk assessment, recommendation for supervision and some criminal history background. • The average time between arrest and assessment is approximately 12 hours. Officers assess every morning at 4am, 7 days a week. • Drug filings since 2012 have increased 100%, which is part of the felony filings increase. • Denver does not assess non-DV municipal cases. • The ADP under supervision is just under 2400, which is too many people on pretrial supervision. • Every year the distribution is almost identical between CPAT categories. • However, the Category 4 group contains a lot more people than originally predicted. In the beginning it was thought this category would contain 8% of the population but over the last five years it contained between 20-25%. There are more high risk people in Denver than was originally predicted. The CPAT was predicated on 10 study counties and basically, Denver has more serious folks than the other 10. A couple thousand people were included in that 10 county study and the Category 4 group originally contained 8% high risk. Basically, the N was too small. • Greg noted that 75% of the assessed population are felony level, so throws off the risk scores as well.
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<p>Issue/Topic: Local update – Denver Pretrial (continued)</p> <p>Action:</p>	<ul style="list-style-type: none"> • The biggest takeaway from Denver is the reliability of CPAT and that it does accurately assess the risk population. • The ODARA tool breaks defendants into low, medium and high categories. There’s a higher percentage assessed at higher risk (56%). • ODARA is based on a five-year time frame AFTER assessment. • There were two big changes in Denver in 2017. An experience prosecutor began to participate in felony first appearance hearing, joining the public defender and the felony bond schedule was abolished. • Once someone is booked into jail they don’t have a bond amount until after the assessment, then the bond conditions are set. • With continued collaboration and education on pretrial justice issues, Denver’s non-monetary release has steadily increased reaching a high of 58% in August 2017. • This is the best reflection of a system understanding better pretrial practices without money. • The jail population has decreased in 2017 and is at 350 below capacity. • Of the defendants in custody 40% are scoring as high risk. • The Decision Matrix was updated most recently in 2016 and there are a couple added changes. • There are added ‘enhancers’ or circumstances that bump someone from one supervision level to the next. • Things like weapons and a high ODARA score are included as considerations. • There are three main supervision levels <ul style="list-style-type: none"> -Green is administrative – basically court reminder calls -Enhanced supervision is traditional pretrial -Intensive supervision is with electronic monitoring • There’s another max restrictions category which includes in-home detention and e-monitoring for highest risk. This was not meant to be a supervision level but is in response to high risk defendants who are a public safety risk. • The only way to fall into this maximum red category is if someone has an enhancer. • There are 5% in the high red supervision category and they are almost always COV or gang-involved. • 50% are enhanced defendants and 20% are on no pretrial supervision and are administrative only. • As money has been removed from the system pretrial supervision has continued to rise. • Someone will be bumped to enhanced supervision to get substance testing. • Most conditions set by a single judge which has provided consistency. • Denver has partnered with other state and city agencies to provide improved services to defendants and the community. • From 2012 through 2017 program success rates correlate to pretrial CPAT risk scores. • Greg noted that Denver is experimenting with introducing another assessment at the pretrial stage called the RANT (Risk and Needs Triage) to help drive prosecutor and charging decisions.
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<p>Issue/Topic: Local update – Denver Pretrial (continued)</p> <p>Action:</p>	<ul style="list-style-type: none"> • Maureen asked if Denver keeps race/ethnicity data. Aubree replied that it is entered but not reported. • As for the mental health population there’s a self-report indicator on CPAT which can be a flag to pretrial officers to then talk to the defendant about services. However there is not a specific assessment. • The Denver jail has a mental health navigator and the prosecutor at the first appearance is a chief deputy at the mental health unit. • Richard noted that it is common in established pretrial programs to use a matrix. • There has been a dramatic rise in the number of folks receiving PR bonds in Denver. One of the contributing factors is probably that the DA is present. Another reason is system education and Denver talks about pretrial constantly. • When the Chief Judge in Denver jumped on board that’s when the change started happening. There was energy around the growing jail population in Denver. • Cliff noted that when a jurisdiction has an active pretrial program the number of people on supervision can become overwhelming and get overused. Judges will give a PR bond but then enhance supervision, leading to too many people on supervision. • The increased number of PR bonds are not necessarily increasing public safety issues on the street. • Denver Pretrial has 36 people on staff for 2,375 people on supervision. • The dramatic increase in filings (up 18%) continues to be concerning and there’s no word yet from the DA’s on exactly why that is taking place, although there is an indication that it may be drug related. • Mindy noted that it is important to get ahead of broadcasting this data so it doesn’t get misreported down the road. • Maureen noted that Bo looked at whether pretrial population failures were contributing to increased felony filings but he found that it wasn’t.
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<p>Issue/Topic: Working Groups - Report Out</p> <p>Action: Working groups will continue to meet and report back</p>	<p>Discussion: The lead of each of the four working groups offered a report on their progress.</p> <p>Implementation of 2013 Statute</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • Maureen Cain reported that the group met yesterday. • Boulder DA Ryan Brackley and Maureen met and reviewed the Colorado bail statutes and 2013 law and are analyzing statutory changes in various states. • They are discussing issues around the elimination of money bond for certain kinds or crimes and how that could possibly occur. There have also been discussions about timeframes and the inability to get back into court after an initial hearing, and whether this is something to work on. • The group has also discussed the % of bonds to the court. Three states are using a ‘partial bond’ rather than non-monetary bonds. Instead of
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<p>Issue/Topic: Working Groups - Report Out (continued)</p> <p>Action:</p>	<p>paying a bondsmen the person pays bond and the court gets 10% of that fee - 90% goes back to the person.</p> <ul style="list-style-type: none"> • The group has also discussed the use of video or telephonic communications. CA has a statute about telephonic and video communications to meet timeframes. • Need to explore how to enhance communication. • Greely conducts some out-of-county videos and has a dedicated system for video advisement. • These are just a few of the areas under study. • There are discussions about whether violation of bail bond conditions should be grounds for revocation only and not a new charge. Some other states make FTA a new crime. • The group also discussed mandatory pretrial. Maine does a pretrial risk and needs assessment statewide for the purpose of diverting people out. California has a good legislative declaration as well. • Maureen is putting all the topics in categories and will present at the next meeting. <p>Mindy reported that the Judicial Pretrial group has been meeting the last couple of months and has prepared a mission statement in draft form. She and Judge Samour will be meeting with the Chief Justice on Thursday to present the mission statement. The court will vote on the mission statement and whether to approve or make modifications. She added that she can't share the content if the statement until it is approved by the Supreme Court. The approval of the Chief Justice is needed to ultimately make policy decisions. The group is also contemplating looking at current laws as they are today and looking at judges concerns.</p> <p>Assessment Tools/CPAT/Decision making/Bond schedules/Conditions</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • Greg Mauro reported that he, Valarie and Cliff met earlier today. Sheriff Heap will be joining the group soon and will offer a perspective from a smaller county that doesn't have a pretrial model. • The group is looking at the homegrown assessment tool that Arapahoe/Douglas created and there are conversations about the Arnold Foundation tool as well. • The group is also realizing that the way risk assessment info is communicated to decision makers is important too. • The group is continuing to watch the CPAT validation project out of UNC. • One over-arching theme continues to be the struggle with recommendations that don't speak to what seems to be the major shortcoming in Colorado, which is the inability to contain. This is central to a lot of the challenges with risk assessment. • If Colorado continues to <u>not</u> have the ability for no bail, this issue will continue to be a problem. • If Colorado removes money as criteria, there needs to be the ability to contain someone who is a substantial threat. The state has to have preventive detention ability. If that gets resolved a lot of the other stuff
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<p>Issue/Topic: Working Groups - Report Out (continued)</p> <p>Action:</p>	<p>is easier to resolve</p> <ul style="list-style-type: none"> • Maureen noted that the flip side of the coin is that Colorado doesn't have a lot of problems with the 'hold' side, but there's a whole lot of problems with the release side. Denver and Mesa are doing things correctly but until everyone becomes a Denver or Mesa there will be ongoing issues. • Richard asked Greg's group to continue to focus on assessment tools and that the full Task Force will need to weave everything together eventually. He asked them to continue exploring how assessment tools are used and what to do with the info and how to communicate it to the decision makers. <p>Pretrial Release Detention</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • Bo Zeerip reported that his group does not have much to report but that he agrees with Greg and Cliff. • The group did not meet this month because Judge Enquist is in jury trial, Bo is getting ready for jury trial and Lucy was also unable to meet. The group skipped January but will do double duty in February and will meet the day before the February meeting. • In response to the issue of containment, pretrial release reform advocate Judge Truman Morrison says "if you want release to increase you have to give judges a detention option". This is happening in New Jersey as well. • Bo reported he will have more time to give to the project in the coming months. <p>Pretrial Services/Supervision/Violations/Resources/Behavioral Health</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • Steve Chin explained that his group met yesterday and revisited the idea of distributing a survey and have decided to not include jurisdictions that don't have pretrial. • They are working on revamping the survey for programs that do currently exist and want to hear from jurisdictions about least-restrictive conditions and jurisdictions struggling with over-supervision. • The group wants to get info on what's working well or not. They will come back to this group with best practices. • The better the group understands good practice it gives a better idea of where to go. • Monica reported that she's looking at the most effective minimum standards. • Bill Kilpatrick raised the issue of lack of support from the bench in the past and noted that it would be helpful to have support for this project from the bench. There has never been a statement from the Chief Justice that says 'do something about this'. • Mindy replied that Judicial is in a different position today than they ever have been in the past. Two justices who are liaisons to the Supreme Court are attending Judicial's Working Group meetings.
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<p>Issue/Topic:</p> <p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Discussion:</p> <p>Richard wrapped up the meeting by noting that there would be more in-depth report outs from the four working groups at the February meeting. Stan closed out the meeting by reminding the Task Force members that the next meeting would be held on February 6th.</p>
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Next Meeting

February 6, 2018 1:30pm – 4:00pm 710 Kipling, 3rd floor conference room