

**CCJJ Bail Subcommittee**

January 6, 2012, 2:00PM-5:00PM  
700 Kipling, 1st Floor Conference Room

**ATTENDEES:****CHAIR**

Judge Margie Enquist/1<sup>st</sup> Judicial District, co-chair  
Grayson Robinson/Arapahoe County Sheriff, co-chair

**SUBCOMMITTEE MEMBERS**

Doug Wilson/State Public Defender  
Scott Storey/Jefferson County DA  
Sharon Winfree/Colo. Association of Pretrial Services  
Bill Kilpatrick/Golden Police Chief  
Maureen Cain/Colorado Criminal Defense Bar  
Sallie Clark/El Paso County Commissioner  
John Marcucci/Denver County Court  
Steve Mares/Professional Bail Assoc. of Colorado  
Greg Mauro/Denver Pre-trial services  
Kate Murphy/17 Judicial District, Victims representative  
Michael Dougherty/Deputy Attorney General

**STAFF**

Paul Herman/CCJJ consultant (on phone)  
Kim English/Division of Criminal Justice  
Germaine Miera/Division of Criminal Justice  
Mike Jones/Jefferson County Criminal Justice Planner

**ADDITIONAL ATTENDEES**

Stephanie Clark/Colorado Criminal Defense Bar  
Jeff Clayton/Judicial Department  
John Clarke/Clarke Strategies  
Mike Whitlock/American Surety  
Randy Riggon/Rocky Mountain Bail Association  
Jay Labe/Colorado Bail Roundtable



<b>Issue/Topic:</b> Welcome and Introductions	<b>Discussion:</b> Grayson Robinson welcomes the group and previews the meeting agenda.
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>December meeting initial goals</p> <p><b>Action</b></p>	<p>Paul Herman reviews the outcomes and goals discussed by the group at the December meeting.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> <li>○ The group came up with basically two kinds of goals - Outcome goals and Process goals. The difference is the way we conduct our business vs. outcomes and results</li> <li>○ Some are more broad goals and some more targeted goals</li> <li>○ Goals include- <ul style="list-style-type: none"> <li>-Understanding the system better</li> <li>-Understanding pretrial</li> <li>-We need good data</li> <li>-Nuance of FTA data may be hard to capture</li> <li>-Good data will lead to good data-based decisions</li> <li>-What data do we want to look at initially for analysis and what data do we want to make sure we're tracking during the process. These are two different things and it will likely be difficult, but we do want to have these conversations early on.</li> </ul> </li> <li>○ Revisit concept and purpose of bail – what exactly are we talking about here</li> </ul> <p>Goal break-outs as follows-</p> <p><u>Process goals/how we conduct our business</u></p> <ul style="list-style-type: none"> <li>○ We need as much accurate info about the system as possible</li> <li>○ We need to keep in mind the county perspective, jail detainee population, revolving door and pretrial population</li> <li>○ Need apples to apples data comparison for decision making</li> <li>○ Create mission statement</li> </ul> <p><u>Outcome goals</u></p> <ul style="list-style-type: none"> <li>○ Apples to apples outcome data needed for performance measurement. Set the parameters initially so we have a base to measure off of</li> <li>○ Reduce the pretrial detainee population without decreasing public safety</li> </ul>



	<ul style="list-style-type: none"> <li>○ Outcome goals need to benefit the public fiscally as well as meeting public safety interests.</li> <li>○ Public/private partnerships?</li> <li>○ Impact on poor</li> <li>○ Stop revolving door/reduce costs</li> </ul> <p><u>Next steps</u></p> <ul style="list-style-type: none"> <li>○ Close the loop on the mission statement between now and the February meeting</li> <li>○ Germaine and Paul to work on mission statement</li> </ul>
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Issue/Topic:	Discussion:
Colorado Bond Industry Background	Steve Mares presents the Bond Industry Background (see PowerPoint).
Action	<p><i>DISCUSSION POINTS and QUESTIONS</i></p> <ul style="list-style-type: none"> <li>○ Is there a distinction between cash bail agents and surety bail agents? <ul style="list-style-type: none"> <li>-Cash bail agents in Colorado have to have been licensed 4 years, then put up a 50 thousand dollar deposit with the state</li> <li>-Surety bail agents have an underwriter, insurance company behind them. They indemnify the underwriter. They agree to back the surety agent to be more responsive to the state.</li> </ul> </li> <li>○ Cash bail agents have less oversight</li> <li>○ 38 cash bail agents in the state, significantly smaller number</li> <li>○ When bond agents refer to “Assessing Risk” what does that mean? How do you do this? <ul style="list-style-type: none"> <li>-We assess risk by asking the offender how much trouble they’ve been in, how many times arrested, have they served bail before, do they have a job. Bond agents ask as many questions as possible to find out who they’re dealing with. They also run background/credit on defendant and cosignor.</li> </ul> </li> <li>○ Define what you’re looking for as far as ‘risk’? <ul style="list-style-type: none"> <li>-Bond agents have a fiduciary duty to the court. The initial risk is assessed by the judge with the amount set, bail agents do risk assessment from that point forward and most of this is financial. Bond agents are assessing whether or not the defendant will return to court and comply and if they do not, as some inevitably will not, is the indemnity sufficient. Someone with nothing to lose is unlikely to be as cooperative.</li> </ul> </li> <li>○ Bond agents get background info, everywhere they’ve ever lived,</li> </ul>



they known associates, etc. All the questions asked paint a pretty good picture.

- Bond agents get a good feel for a person based on both objective and subjective criteria
- What efforts does your industry take to reduce risk? What are the interventions?
  - Bail/Bond agents used to do quite a bit. In Colorado, the Division of Insurance says bail agents can do very few things to put additional provisions on clients. Can't do much now. Used to have clients check in on the phone or in person, etc. Clients still check in and indemnitors are in contact also. The COI will not let bond/bail agents pass on costs for ankle monitors, urinalysis, etc. which makes it unfeasible on a large scale.
- Here in Colorado, agents rely on indemnitors to check on their clients. Agents don't rely solely on indemnitors but they provide a good method for tracking defendants since they are the ones who are affected if the defendant disappears.
- The question is, what interventions can you or do bail/bond agents take?
  - Alcohol monitoring, ankle monitoring, GPS monitoring that could be utilized but is often cost prohibitive (as DOI will not allow agents to pass on the costs, even if the defendant requests).
- The risk assessment issue is huge, when we refer to risk we're talking about re-offense and potential to FTA.
  - There is no risk assessment tool used per se to assess potential recidivism.
- Is the consent of sureties statutory or contractual?
  - It's statutory. In the 80s there was no consent of surety.
- You say "Can't continue the bond without their consent", whose consent are you referring to?
  - The bail contract is with the court, the defendant and then bail agent, in most circumstance the indemnitor is also involved.
- The defendant and bail agent are both under contract with the court
- You mention that 2.16M a year is forfeited to the court. Where does the 2.16 million go?
  - To the state's general fund
- Bail agents can't charge for consent of surety
- Consent of surety is similar to servicing an insurance policy

#### Sunset Review Issues

- Changes that will be helpful include the fact that the bail AGENCY will be recognized, not just the bail AGENT. This means everyone who works at the bail company can sign a receipt or give back collateral. Rather than just the individual bail agent.



- Another positive change is that a new bail agent has to work under an agency for 4 years before they can open their own business
- Grayson informs the group that at the February meeting the subcommittee will go through the Sunset review recommendations as a group

**Bail/Bond Industry Jail Study-**

- Bail agents are currently working on a survey to send to all county sheriffs to gather information
- Grayson met with Sheriffs over the last few days about the bail agents jail study
- There is friction between bail agents and pretrial release and it would be good to have some kind of communication and cooperation.

<b>Issue/Topic:</b>	<b>Discussion:</b>
Next meeting	
<b>Action:</b>	<p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> <li>○ As we move into February, the group needs to read the DORA report and make sure they understand it as we will be going over each of the recommendations</li> <li>○ Timing is important as legislators are starting their work on this</li> <li>○ Judge Enquist informs the group that police chiefs passed a resolution related to pretrial release and BJA has some technical assistance to offer if we want to partake in either of those</li> <li>○ Sallie informs the group about the National Association of Counties (NACo) Justice and Public Safety Symposium which will be held in Atlanta, GA January 25-28<sup>th</sup>. The focus will be on reducing costs for counties through innovative programs.</li> <li>○ Let's talk about specialty courts; look to sentencing alternatives (is this in our scope?)</li> <li>○ Recidivism – there is a distinction between recidivism and committing an offense when on bond. This is hard to measure. When we're looking at data we need to look specifically at behavior on bond</li> <li>○ Recidivism is different than committing a crime while on bond</li> <li>○ G will let you know on the meeting time</li> </ul>



**Future Meeting Dates:****Meeting Schedule**

February 10 <sup>th</sup>	2:00pm – 5:00pm	Jefferson County DA's office, 500 Jefferson County Parkway
March 2 <sup>nd</sup>	2:00pm – 5:00pm	700 Kipling, 1 <sup>st</sup> Floor Conference Room
April 6 <sup>th</sup>	2:00pm – 5:00pm	710 Kipling, 3 <sup>rd</sup> Floor Conference Room
May 4 <sup>th</sup>	2:00pm – 5:00pm	710 Kipling, 3 <sup>rd</sup> Floor Conference Room
June 1 <sup>st</sup>	2:00pm – 5:00pm	700 Kipling, 1 <sup>st</sup> Floor Conference Room