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Colorado Commission on Criminal and Juvenile Justice
Drug Offense Task Force

Sealing Working Group
Minutes

December 12, 2019 / 12:30PM-2:45PM
2nd Floor OCC Conference Room, 710 Kipling, Lakewood, CO

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ATTENDEES:

WORKING GROUP MEMBERS
Audrey Weiss, Lead, District Attorney's Office, 1st Judicial District
Maureen Cain, Office of the Colorado State Public Defender
Elaine Cissne, Colorado Bureau of Investigation
Jack Regenbogen, Colorado Center on Law & Policy
Ean Seeb, Governor's Office (Special Advisor on Cannabis)

GUEST
Ted DeRosa, Colorado Bureau of Investigation

STAFF
Richard Stroker, CCJJ Consultant
Stephané Waisanen, Division of Criminal Justice

ABSENT
Chris Andrist, Colorado Bureau of Investigation
Janet Drake, Attorney General's Office
David Quirova, Colorado Judicial Branch

Issue/Topic	Discussion
Welcome, Introductions, & Approval of Minutes **Review of Agenda** Audrey Weiss	Audrey Weiss welcomed Ted DeRosa from the Colorado Bureau of Investigation, and asked everyone to introduce themselves. The previous minutes were unanimously approved. Audrey briefly summarized the agenda and mentioned that she had spoken with the Prosecuting Attorneys Association of Michigan (PAAM) about potential legislation on automatic sealing/expungement. Prior to the start of the agenda, there was a brief freeform discussion of the challenge of sealing automation. Ean Seeb mentioned that a possible resource might be Code for America (see, brigade.codeforamerica.org/brigades/Code-for-Denver/). He mentioned the importance of creating a "data map" of movements through the system, including Judicial and the CO Bureau of Investigation. Another question raised was whether and how to involve "third parties" to perform the automation programming. Audrey mentioned that Michigan worked with Code for America. More information would be necessary to understand how Code for America operates and conducts their projects. It was suggested that the Working Group initiate a conference call with them during a subsequent meeting. The meeting then proceeded to the agenda items below.

Issue/Topic	Discussion
Municipalities using the Colorado Judicial Information Technology Department Audrey Weiss	Audrey distributed David Quirova's handout on costs and procedures of implementing an automated sealing process that would include both municipal and Denver County Courts. The cost reflects the work to be done on the judicial side, but municipalities and Denver County would still need to connect through an Application Program Interface (API) to judicial. The project includes the following: • Business Analyst Contractor • Quality Assurance Contractor • Four Contract Software Engineers • Software The total cost for implementation would be around $1.9 million dollars, and the timeframe for standup connections and development would be two years. Questions that the Information Technology Department has for CBI: • Since the sealing would be automatic, how will CBI and law enforcement agencies know how to seal their records? • Does OIT need to send something to CBI? • Currently, defendants pay to have their CBI record sealed. With the new implementation, how will the cost be managed?

Issue/Topic	Discussion
Pennsylvania State Police – Clean Slate Process Audrey Weiss	Audrey briefly reviewed Christ Andrist's handout distributed to members entitled, *Pennsylvania State Police – Clean Slate*. Statewide, all Pennsylvania counties are connected to the Administrative Office of Pennsylvania Courts (AOPC) database. The system cost was $3 million to program just the case identification process. The overall process is that AOPC reviews records to identify eligible candidates. Once a list is created, AOPC sends the information to the Pennsylvania State Police (PSP). PSP verifies the records and if an individual meets the criteria, an approval is sent back to AOPC, and the county of record is notified. Once the county of record seals the information, it is sent back to AOPC where they notify PSP and the database is updated. Cases that can be approved for Sealing: • Unclassified – 2nd & 3rd degree misdemeanor convictions. Individual to be free from arrests or charges for ten years. • Summary Violations – Requires individual to be crime free for a period of ten years following a conviction. • Non-Conviction – Applies to non-conviction information. Crimes not eligible for sealing are: violent offenses, sexual assault, homicide, and child endangerment.

Issue/Topic	Discussion
Michigan Automatic Sealing & Probation Audrey Weiss	Audrey reported that the Prosecuting Attorneys Association of Michigan (PAAM) has found that their biggest challenge will be getting all judicial districts online. They stated that ¼ of the counties do not have internet access and are still using paper files. She asked PAAM whether they had suggestions for the Working Group to consider when creating an automated process: • Have all jurisdictions on one centralized court system. • Timeframe – Need more than a year to build, implement and test system - approximately 2-3 years.

Issue/Topic **General Discussion** All	Discussion
	General points of discussion included: - if money were not an issue, it would be advantageous to include municipal offenses in the scope of the recommendation. Maybe those offenses that include a fingerprint could be included (given these would "hit" the CBI system), but not those without a fingerprint. A discussion ensued regarding the inclusion of municipal offense types and sealing eligibility - a potential problem with automated sealing is issues of equal protection. If some of the municipals are charging on a lower level drug offense and someone else has a municipal offense, why should they pay for sealing if the

Issue/Topic	
General Discussion All **ACTIONS** *(Listed below)*	municipals are not on the system? We would we create a situation that produces equal protection concerns.
	- whether all counties are on the same computer system, the issue of Denver excluding itself from the Judicial system, and the technology infrastructure barriers that might exist
	- should cost of the system prevent the development of a CCJJ recommendation? No. The best policies/practices should still be identified and developed into a recommendation with an acknowledgement that there will be costs and possibly offer alternatives
	- the challenges of disposition matching and how to design a fair and safe system to accomplish the matching
	Audrey stated that Janet Drake of the Attorney General's Office and would be a good resource regarding equal protection issues. Audrey will seek Janet's advice.
	Code for America might be a helpful resource to identify the needs surrounding system implementation and the associated costs. Another potential resource might be the Last Prisoner Project (see, lastprisonerproject.org/).
	A data map would be extremely beneficial to explicate the current process flow and the desired process flow. Data sharing issues should also be delineated.
	The discussion concluded addressing the SB19-008 mandate, expectations of the Working Group, submission of materials to the Task Force and the overall CCJJ timeline.

Issue/Topic	Discussion:
Next Steps & Adjourn Audrey Weiss **ACTIONS** Contact Code for America Acquire data flow map & system infrastructure Research equal protection issues Continue exploration of experiences in other states	The group will discuss the following at the January meeting: • Jack will see if Evonne Silva from Code for America would be able to call in for answering some questions the group has. • Ted will obtain a data and infrastructural map that can be publically visible and have Chris present it at the next meeting. • Ean and Maureen will research and gather information on equal protection issues. • Audrey will contact the Attorney General's Office regarding equal protection issues. • Audrey will continue discussions with the Prosecuting Attorneys Association of Michigan. Audrey, thanked the Working Group for their contributions and adjourned the meeting.

Next Meeting
January 9, 2020
12:30PM – 2:45PM
1st Floor CATPA Meeting Room, 710 Kipling, Lakewood, CO