

Drug Policy Task Force / Amendment 64
Colorado Commission on Criminal and Juvenile Justice

Minutes

September 18, 2013, 1:30PM-4:30PM
Ralph Carr Judicial Building

ATTENDEES:

CHAIR

Eric Philp, Division of Probation Service
Charlie Garcia, CCJJ At-Large Representative

TASK FORCE MEMBERS

Maureen Cain, Criminal Defense Attorney
Pat Steadman, Senate District 31
Brian Connors, Public Defender's Office
Lewis Koski for Ron Kammerzell, Department of Revenue
Thor Eells for Vince Niski, Colorado Spring Police Department
Kevin Paletta, Lakewood Police Department
Tom Raynes, Colorado District Attorney's Council

STAFF

Kim English, Division of Criminal Justice
Germaine Miera, Division of Criminal Justice

ABSENT

Marc Condojani, Division of Behavioral Health
Evie Hudak, Senate District 19
Mike Foote, House District 12
Christie Donner, Colorado Criminal Justice Reform Coalition
Matt Durkin, Attorney General's Office

ADDITIONAL ATTENDEES

ART WAY, DRUG POLICY ALLIANCE
LAURA PEGRAM, DRUG POLICY ALLIANCE

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion:</p> <p>Eric Philp and Charlie Garcia welcomed the group and previewed the agenda.</p> <p>The Co-chairs explained that the documents task force members have in front of them are the proposed final outcomes for policy statements to be included in the report to the legislature. The one exception is the issue of MIP which is yet to be determined.</p> <p>The goal today is to move through these items one by one and make sure there is group consensus.</p>
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<p>Issue/Topic: Review Position Statements on Legislative Directives</p> <p>Action</p> <ul style="list-style-type: none"> • CCJJ to discuss funding issues for education, prevention and treatment. • Need to revise 24-31-314 verbiage to address DRE training in POST rather than the academy • Need to revise 42-4-1305.5 verbiage to add an AND between II and III • Clarification on legislative directive in statement #3 • Clean-up only on statement #4 	<p>Discussion:</p> <p>Task force members reviewed each of the five position statement.</p> <p><u>Statement #1</u> <i>DISCUSSION</i></p> <ul style="list-style-type: none"> • There were four elements included here <ul style="list-style-type: none"> - 1.a. Decriminalizing consumption of small amounts of marijuana - 1.b. Creating a lawful marketplace for adults to obtain safe and legal marijuana - 1.c. Protecting against youth access and consumption of marijuana, and - 1.d. Eliminating the illicit drug marketplace • These four issues have been addressed individually. • Regarding 1.a., the group found no statutory change needed. • For 1.b, the group found no statutory change needed. • For 1.c., what’s missing is funding for public education, money designated to the treatment fund, and issues around advertising, etc. • For 1.d., the group found no statutory change needed. • These four directives are found in 16-11.3-103, which established this task force and outlined the work. • The task force can’t vote on or finalize “c” until we have consensus on the issue of Minor in Possession (which is still in the works). • The group agreed to vote on A, B, C and D / with the caveat of adding a question mark on “c” and noting more clarification on including 18-13-122. • All members are in favor. • CCJJ shall discuss the funding issue on “c” and details about where the money comes from in regards to surcharges, etc. • MIP will be dealt with separately in 12.5
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<p>Issue/Topic: (continued)</p> <p>Review Position Statements on Legislative Directives</p> <p>Action</p>	<p><u>Statement #2</u></p> <p>Statement #2 deals with the 6 recommendations that came out of the Amendment 64 Task Force in regards to criminal law.</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • A64 recommendation 12.1 <ul style="list-style-type: none"> -This task force supports this recommendation through HB13-1325. Consensus = Yes. • A64 recommendation 12.2 <ul style="list-style-type: none"> -ARIDE training was addressed in SB13-283 encouraging training if sufficient funds are available. -However, this is about providing advanced DRE training for entry level officers at the academy. Advanced DRE training should be available for more seasoned officers in subsequent POST trainings, not at the academy level. The way it's worded now won't help accomplish the intent of the recommendation, especially in regards to public safety. -At first glance this looks like a good recommendation, but the details are unrealistic. -Ideally this should've been POST supervised training <u>with funding</u>. -There's an impression that we'll have robust capabilities of DRE's, but if training happens at the academy it won't make a difference. -We need to change verbiage to say the training should happen at POST. -Thor Eells will provide amended verbiage for 24-31-314, to present to CCJJ for a recommendation. -The verbiage will still recognize the value of training; it just shouldn't happen at the academy. -Vote – there is consensus minus one. Brian Connors votes against this. Brian has concerns about the DRE training in general. • A64 recommendation 12.3 <ul style="list-style-type: none"> -There is group consensus that this issue is taken care of under current statute. • A64 recommendation 12.4 <ul style="list-style-type: none"> -This has to do with Transfer of marijuana to 18 to 20 year olds - Adults used to be considered 18 and over and minors were everything else -This changes things - Strike first three bullets on this 12.4 policy statement - One reason not to make any changes at this juncture is because there are not a lot of cases. -Let's watch how this starts to play out and make a recommendation if needed
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<p>Issue/Topic: (continued)</p> <p>Review Position Statements on Legislative Directives</p> <p>Action</p>	<p>-12.4 Consensus / Yes</p> <ul style="list-style-type: none"> • A64 recommendation 12.5 <p>-This is about consequences for Juvenile Possession. The group will return to this issue later.</p> <ul style="list-style-type: none"> • A64 recommendation 12.6 <ul style="list-style-type: none"> - The task force recommends amending verbiage on 42-4-1305.5 (c)(I) to read: <ul style="list-style-type: none"> (I) That is open or has a broken seal; or (II) The contents of which are partially removed: AND (III) There is evidence that marijuana has been consumed within the motor vehicle - The 'AND' goes between II and III. - With this change there is consensus <p><u>Statement #3</u></p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • This Legislative Directive needs clarification only. • Nothing needs to be stricken. • This was in the introduced version, just not the final version. It really just needs clarification. No statutory changes. • Consensus / Yes <p><u>Statement #4</u></p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • This is not about juveniles because it is for people age 18-20 years old. However, it does include people affected by MIP, because MIP is under 21 years of age. • Do we have consensus that absent the MIP discussion, everything else is resolved regarding the transfer issue? <ul style="list-style-type: none"> -Yes, as long as the second bullet is changed from one to two ounces, and highlight unlawful activities regarding TRANSFER. • Consensus here /Yes <p><u>Statement #5</u></p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • As discussed in the Amendment 64 Task Force, the rate of taxation will have an effect on the illicit market place as will municipalities that don't allow marijuana retail stores. Both of these things will encourage an illicit marketplace, but this is out of our purview. • The group agrees that yes, there is consensus.
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Issue/Topic:	Discussion:
<p data-bbox="155 247 472 310">Consequences for Juvenile Possession and MIP</p> <p data-bbox="269 352 358 384">Action:</p> <ul data-bbox="142 426 532 600" style="list-style-type: none"> <li data-bbox="142 426 532 495">• Tom and Maureen to submit a draft proposal <li data-bbox="142 533 532 600">• Germaine to get ballot details out to the group 	<p data-bbox="561 247 1523 384">Tom and Maureen have been working on the issues of consequences for Juvenile Possession and for Minor in Possession as it pertains to marijuana. They haven't yet reached consensus on a proposal to present to the group and they are continuing to deliberate on a few sticking points.</p> <p data-bbox="561 426 708 457"><i>DISCUSSION</i></p> <ul data-bbox="610 464 1523 1864" style="list-style-type: none"> <li data-bbox="610 464 1523 600">• Tom and Maureen are honing in on a couple of issues around someone's first offense <ul data-bbox="659 533 1450 600" style="list-style-type: none"> <li data-bbox="659 533 1450 600">– One issue has to do with whether or not a plea would actually be entered and then immediately sealed. <li data-bbox="610 606 1425 638">• As far as the overall model it doesn't appear to be a big problem. <li data-bbox="610 644 1463 781">• There is consensus that there should be a separate statute for MIP alcohol vs. MIP marijuana – one of the plusses of this would be for tracking and data collection purposes as it pertains to the impact on marijuana cases. <li data-bbox="610 787 1458 924">• One of the main goals for consequences on juvenile and minor possession is to emphasize education and responsible usage, not to criminalize this population but to make sure we're treatment and education oriented. <li data-bbox="610 930 1516 961">• Tom and Maureen say they are not far off from finding common ground. <li data-bbox="610 968 1377 999">• Tom, Maureen and Miles are going to continue work on this. <li data-bbox="610 1005 1484 1108">• Another problem is around multiple offenses (2nd or 3rd) and whether those take place in municipal court or in state court and are they then accounted for as far as subsequent offenses. <li data-bbox="610 1115 1511 1182">• Keep in mind this is a problem with many crime classifications, however individual jurisdictions can have policies to keep track of that. <li data-bbox="610 1188 1484 1255">• Tom and Maureen will submit a draft proposal that will be distributed through email. <li data-bbox="610 1262 1393 1293">• We also need to discuss paraphernalia and education funding. <li data-bbox="610 1299 1490 1367">• Is there an allocation formula for tax dollar education funding through DORA? Can we add to the treatment fund? <li data-bbox="610 1373 1484 1440">• There is a special tax and excise tax proposal on the November ballot. The excise is for public education but not sure about the rest. <li data-bbox="610 1446 927 1478">• Let's look at the ballot. <li data-bbox="610 1484 1511 1551">• If we could separate out some of that money to this fund that should be a priority. <li data-bbox="610 1558 1511 1661">• This group also wants to make sure that whatever money is allocated to treatment goes to something that Behavioral Health approves and has designed already. <li data-bbox="610 1667 1523 1833">• As for funding – is there an attempt to make this mandatory? Has there been any thought given to 'What if there's inadequate funding?' We're assuming the bill will pass and it will be worth millions of dollars. There is often a big difference between projected money generated and actual dollars and shortfalls. <li data-bbox="610 1839 1386 1871">• Let's be sure to use verbiage of "assuming sufficient funding".

<p>Issue/Topic: (continued)</p> <p>Consequences for Juvenile Possession and MIP</p> <p>Action:</p>	<ul style="list-style-type: none"> • • Are we talking general education? Education for kids? Level 1 and level 2 education? Marijuana specific education? • Behavioral Health just completed a curriculum for MIP alcohol so it's more robust • As for paraphernalia – why does this have to be a crime? What about the kid who gets stopped with marijuana and a pipe. It will be a civil summons on the marijuana and the paraphernalia charge could end up in court. • Next steps – wait for Tom and Maureen proposal. • Depending on MIP outcomes – the group will need to revisit and resolve the separate funding issues for treatment, education and prevention.
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<p>Issue/Topic:</p> <p>Public Comment</p>	<p>Discussion:</p> <p>None.</p>
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<p>Issue/Topic:</p> <p>Next Steps</p>	<p>Discussion:</p> <p><i>WHAT'S NEXT</i></p> <ul style="list-style-type: none"> • We will try to address the remaining issues through email, if we are unable to come to consensus we'll meet one more time the afternoon of October 2nd.
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Future Meeting Dates:

Meeting Schedule 2013

October 2nd 1:30pm – 4:30pm 1300 Broadway, Room 11-107