

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

**Minutes**

October 2, 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  
Kevin Paletta, Lakewood Police Department  
Tom Raynes, Colorado District Attorney's Council  
Julie Selsberg for Matt Durkin, Attorney General's Office (non-voting)  
Marc Condojani, Division of Behavioral Health  
Mike Foote, House District 12

**STAFF**

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

**ABSENT**

Thor Eells for Vince Niski, Colorado Spring Police Department  
Ron Kammerzell, Department of Revenue  
Evie Hudak, Senate District 19  
Christie Donner, Colorado Criminal Justice Reform Coalition

**ADDITIONAL ATTENDEES**

ART WAY, DRUG POLICY ALLIANCE  
LAURA PEGRAM, DRUG POLICY ALLIANCE  
MIKE ELLIOTT, MEDICAL MARIJUANA INDUSTRY GROUP  
ROBERT CHASE, COLORADO COALITION FOR PATIENTS AND CAREGIVERS  
KATHLEEN CHIPPI, MARIJUANA ADVOCATE  
MARK SLAUGH, SOUTHERN COLORADO REGIONAL COORDINATOR, AMENDMENT 64

<p><b>Issue/Topic:</b> Welcome and Introductions</p>	<p><b>Discussion:</b> Eric Philp and Charlie Garcia welcomed the group and previewed the agenda.</p>
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<p><b>Issue/Topic:</b> Review CCJJ recommendations</p> <p><b>Action</b></p>	<p><b>Discussion:</b></p> <p>Task force members reviewed each of the three following potential CCJJ recommendations.</p> <p><u>Recommendation #1 - ARIDE</u> <i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• The previous discussion around this recommendation was for ARIDE training to not take place at basic training, but to instead hold it for follow-up training for more seasoned officers later in their careers.</li> <li>• The recommendation synopsis reads “Revise C.R.S. 24-31-314 to clarify that Advanced Roadside Impaired Driving Enforcement (ARIDE) training should take place during POST (Peace Officer Standard and Training) continuing education and advanced training, rather than during basic academy peace officer training”.</li> <li>• 5 in favor, 2 opposed.</li> </ul> <p><u>Recommendation #2 – Open Container</u> <i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• Regarding open container, the discussion at the last meeting was where we put the word ‘AND’ in the recommendation.</li> <li>• The synopsis of this recommendation is as follows: “Revise C.R.S. 42-4-1305.5 as it pertains to open marijuana container and motor vehicles to ensure that the marijuana container is open, has a broken seal, contents are partially removed AND there is evidence of consumption.”</li> <li>• 7 in favor.</li> </ul> <p><u>Recommendation #3 – Prevention, Education and Treatment Funding</u> <i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• The third item deals with prevention, education and treatment funding.</li> <li>• This recommendation has been altered to include the addition of ‘advertising’ under the discussion.</li> <li>• This recommendation specifies that money should be allocated from the marijuana cash fund toward the Adolescent Substance Abuse</li> </ul>
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<p><b>Issue/Topic: (continued)</b></p> <p>Review CCJJ recommendations</p> <p><b>Action</b></p>	<p>Prevention and Treatment Fund.</p> <ul style="list-style-type: none"> <li>• There are all kinds of messaging and advertising that can be covered under the public education fund.</li> <li>• There was also discussion of regulatory proceedings – this is not about taking rights away from sign spinners, it’s about adding in messages about treatment.</li> <li>• Paul – “The thing that jumps out here is whether or not there’s a need for a bit more narrative as to how we’re defining the issues in regard to public education, prevention and treatment and perhaps a little more narrative about what’s being discussed here in terms of scope.”</li> <li>• People will often bring up the fact that prevention should go back to neo-natal care – but that’s not necessarily what the group is talking about here.</li> <li>• The way this recommendation is worded may not provide to the outside reader the intent or scope of the recommendation.</li> <li>• Marc – “if we’re broadening the purpose of the fund outside what’s already in the current statute, it’s not just about dumping money in – it’s about distinguishing what amount of funds are for MIP, what amount of funds are for advertising, etc.”</li> <li>• This should be clarified in the CCJJ recommendation.</li> <li>• Should we bring in verbiage similar to prevention, etc. that is already in place for cigarettes?</li> <li>• What does the legislature want us to say?</li> <li>• Mike F. – “As far as the definition of where these funds are going, do we need more of a definition on where and how the money is used?”</li> <li>• How do we distinguish prevention monies from money for MIP treatment? If you have a single fund with two purposes there needs to be some clarity on how that should be divided. Does this need to be legislative?</li> <li>• We seem to be getting into more detail than is needed for a statute. Make sure the statute gives flexibility for where the money goes.</li> <li>• Paul – in the end, OBH will be tasked with providing appropriate services under this funding.</li> <li>• Mike F. – There’s concern about having enough dollars for prevention purposes. The recommendation is very clear, let’s not get too prescriptive. Let’s get this right in drafting.</li> <li>• 7 in favor.</li> </ul>
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<p><b>Issue/Topic: (continued)</b></p> <p>Review CCJJ recommendations</p> <p><b>Action</b></p>	<p><u>Recommendation #4 – Minor in Possession</u></p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• There is currently no consensus on the details of what a revised Minor in Possession statement should include.</li> <li>• Tom Raynes and Maureen Cain have provided two separate proposals for the group to consider.</li> <li>• The proposals were distributed and discussed by task force members.</li> <li>• Maureen’s draft is much shorter than her original proposal (presented in September).</li> <li>• This MIP proposal pertains to alcohol, marijuana and marijuana paraphernalia.</li> <li>• Tom and Maureen agree on a variety of issues but not everything.</li> <li>• They’re in agreement on general provisions, most of which are current law and fine with definitions of current crimes - but there is disagreement on the penalties.</li> <li>• Maureen supports mandatory diversion for the first offense which she says puts everyone on a level playing field. The court shall order the person to education as approved by DBH, but if person doesn’t consent you can’t order them into treatment.</li> <li>• Tom states that they’re both wrapping in alcohol with these proposed revisions, so the result will be eliminating some of the current alcohol offenses.</li> <li>• The sticking point is whether or not the court should be in charge of mandatory diversion.</li> <li>• If we focus on the differences in these two proposals, it’s the first piece around mandatory diversion.</li> <li>• With Maureen’s version the case is dismissed, with Tom’s the case is sealed.</li> <li>• A minor would either have to pay for the class themselves or we can pay for it out of the fund if there’s money.</li> <li>• 18 jurisdictions have some type of Diversion.</li> <li>• Maureen – the issue is we don’t want a plea entered, want it to be able to be education and a true diversion. Maureen’s version still gives the DA control.</li> <li>• These are MIP cases only.</li> <li>• Tom says both recommendations are worthy of consideration by the CCJJ.</li> <li>• Maureen agrees with Tom’s proposal that any offense sealed will be unsealed with a new offense automatically.</li> <li>• What about enforcement if someone doesn’t want treatment – that would be contempt of court</li> </ul>
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<p><b>Issue/Topic: (continued)</b></p> <p>Review CCJJ recommendations</p> <p><b>Action</b></p>	<ul style="list-style-type: none"> <li>• Marc C. – up until now there hasn’t been clear standards for MIP. They have recently defined rules at OBH about cognitive, etc. and approved providers.</li> <li>• As long as there’s not an unfunded mandate for OBH to serve everyone who has an MIP – Marc is fine with this.</li> <li>• HB 1310 lists diversion as an appropriate use for correctional treatment funds.</li> <li>• DA’s can request funding to pay for classes through probation through 1310.</li> <li>• If we agree on doing away with the class 2 misdemeanor for a repeat offender, the worst they will ever get is a petty offense.</li> <li>• What is the group reaction to this – should we move both forward to CCJJ?</li> <li>• The group agrees to forward both proposals to the CCJJ.</li> <li>• Mike F. – Let’s forward both to the CCJJ. It’s more of a fundamental issue of what does the legislature do and how that plays out.</li> <li>• The CCJJ should hear both proposals since the split is on a wider issue.</li> <li>• Paul – In terms of Commission structure and task forces, the task force does the assessment and analysis and comes up with recommendations so the CCJJ can look at all options and weigh in. This is a good way for the Commission to take the task force research and discuss from there.</li> <li>• This is similar to what happened in 2008 when the (then) Drug Task Force brought Option 1 and Option 2 to the Commission to discuss and debate.</li> <li>• At the end of the day, we’re better off in a legislative effort if the CCJJ can agree about something, there’s no desire to alienate part of the room.</li> <li>• There’s no objection to going through with the MIP issue – the issue centers on how to go about it.</li> <li>• The sticking point comes down to mandatory and a couple disagreements on the ranges.</li> <li>• Tom and Maureen will try to get it a little closer and both will present at CCJJ on October 11<sup>th</sup>.</li> </ul>
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Issue/Topic:	Discussion:
<p>Public Comment</p>	<p><i>Art way/Drug Policy Alliance –</i>                      Art says he would like to weigh in on the issue of pre-plea Diversion. Given the mission of CCJJ, pre-plea Diversion is right in line with that mission. Mandatory Diversion is a great way to go about removing people from the system as much as possible, which is then in line with the mission. Art states that Mr. Raynes approach to raise administrative penalties for those under 21 with the same substance is bordering on something wrong. CCJJ needs to revisit their mission to save money in the criminal justice system and mandatory diversion is the way to do that.</p> <p><i>Robert Chase/Colorado Coalition for Patients and Caregivers-</i>                      Mr. Chase states that with HB1317 and SB250, the statutes have been revised with monumental contempt of the will of the voters. The people of Colorado just amended the constitution to state the marijuana should be regulated the same as alcohol. Violations for the current liquor code are only misdemeanors, and the drug grid is completely different than that. The constitution says cannabis is to be regulated the same as alcohol – how can this group even put a limit on two ounces of marijuana. The CCJJ needs to recommend that the General Assembly remove penalties for all marijuana. This group is ignoring the language. None of you should be on this body. It is a complete evasion of this group’s responsibilities to re-institute felonies for marijuana.</p> <p>Media across the globe are trumpeting the lie that Colorado is spewing. This task force and the Commission are putting people in dire legal jeopardy. Ms. Clifton says marijuana is not driving mass incarceration. If you have felony penalties those will apply. How can you persuade yourself that marijuana laws are not going to be driving incarceration numbers? You need to step back, the primary intent of this group is to make sure that the regulation of marijuana be the same as alcohol.</p> <p><i>Mark Slaugh/Southern Colorado Regional Coordinator, Amendment 64-</i>                      Mark states that there is something to be said regarding the penalties for MIP with alcohol violations being a misdemeanor and not a felony. Take for example an 18 year old kid planting a seed for the first time or any kid that hands a joint to his buddy and gets caught. Anyone penalized under Amendment 64 should be exonerated at this point with the new law. By clearing that up we could re-bolster our economy. Let’s expunge the records for those who would not be considered criminals under the new law. Let’s scale that back and look at misdemeanors before felonies.</p> <p><i>Kathleen Chippi/Marijuana Advocate-</i>                      Ms. Chippi states the new rules and regulations are supposed to decriminalize marijuana and that’s not what this group is doing. Ms. Chippi states that her nanogram count was probably at 200 when she drove from Nederland to this meeting today. She knew if she got pulled she could be losing her license and getting a blood draw. She would like to know that why instead of regulating like alcohol this group is regulating like murder. Ms. Chippi states she’s never had an</p>

<p><b>Issue/Topic: (continued)</b></p> <p>Public Comment</p>	<p>accident in all her years of driving, and yet would be considered an impaired driver the whole way here and the whole way back. She’s extremely concerned about marijuana being compared to murder. Ms. Chippi states that this is not what the voters recommended. She states she voted against this amendment because the language was so vague and she knew the General Assembly and this Drug Task Force would mutilate the intent of the amendment. The world has been lied too. She heard the federal hearing and Hickenlooper, and heard the guy who represents Washington state talk about banning vertical integration. She finds it interesting that the state of Colorado mandates this, mandates you grow plants, and Washington doesn’t allow vertical. She will be filing a lawsuit against the state of Colorado for breach of open records law. She states teams like the Drug Task Force are on a separate mission than advocates.</p> <p><i>Mike Elliott/Medical Marijuana Industry Group –</i>          Mike said he will share the same frustration he’s shared at every meeting of this group to date. He said he hopes this is the last meeting where there is NOT an advocate and an industry representative as an official voting member. He states that it feels hostile to people in the marijuana community to be forced into the public comment phase of these meetings and it makes marijuana professionals appear not responsible enough to take part in these conversations. Mike states he’s very frustrated and hopes this is the last meeting.</p>
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<p><b>Issue/Topic:</b></p> <p>Next Steps</p>	<p><b>Discussion:</b></p> <p>This group will only reconvene if it’s deemed necessary at the upcoming CCJJ meeting.</p>
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