

**Colorado Commission on Criminal and Juvenile Justice
Re-entry Task Force**

Minutes

June 7, 2017 1:30PM-3:00PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

TASK FORCE MEMBERS

Tom Giacinti, Representing Community Corrections

Mark Evans, Public Defender's Office

Rose Rodriguez, Community Corrections

Melissa Roberts, Parole Division

Anne Andrews for Alfredo Pena, Parole Board

Erin Crites for Sherri Hufford, Division of Probation Services

ABSENT BUT ATTEMPTED TO ATTEND VIA PHONE (TECHNICAL DIFFICULTIES)

Adam Zarrin, Governor's Office

Hassan Latif, Second Chance Center

Jennifer Bradford, Metro State University of Denver

STAFF

Richard Stroker/CCJJ consultant

Germaine Miera/Division of Criminal Justice

ABSENT

Stan Hilkey, Dept. of Public Safety

Dave Young, District Attorney 17th JD

Monica Chambers, Department of Corrections

Gary Darling, Larimer County Criminal Justice Services

Jessica Jones, Criminal Defense Attorney

Regi Huerter, Denver Crime Prevention and Control Commission

Rick Raemisch, Dept. of Corrections

GUESTS

Lisa Tibbetts, United States Attorney General's Office

David Johnson, Parole Division

Issue/Topic:	Discussion:
<p>Welcome and Introductions</p>	<p>Commission consultant Richard Stroker welcomed the Task Force members on behalf of Chair Stan Hilkey who was unavailable to attend the meeting. Richard noted that even though there are many absentees the meeting would still proceed as planned. He reviewed the agenda, and asked attendees to introduce themselves.</p> <p>Richard noted that the Re-entry Task Force is wrapping up its work on collateral consequences and that today's preliminary recommendation presentation will include the second (and last) set of recommendations forthcoming from the Collateral Consequences Working Group.</p>

Issue/Topic:	Discussion:
<p>REPORT BACK Preliminary Collateral Consequences recommendation presentation to CCJJ</p> <p>Action: CCJJ to vote on three Re-entry recommendations at the June 9th meeting</p>	<p>Richard explained that Mark Evans presented the <u>first</u> set of collateral consequences recommendations to Commissioners at their May meeting and that the CCJJ will vote on those recommendations at the June 9th Commission meeting. He added that the information was well received but that there was some concern regarding the enforcement agency (DORA) in Recommendation FY18 – RE#02. There will likely be further discussion around this element of the recommendation at the Friday Commission meeting before the final vote on the recommendations.</p>

Issue/Topic:	Discussion:
<p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations</p> <p>Action: The four recommendations will be presented to the Task Force at the July 12th Re-entry meeting for a final vote</p>	<p>Mark Evans, the lead for the Collateral Consequences Working Group explained that the group was formed in June 2016 and consists of Erin Crites from Probation, Scott Turner from the Attorney General's office, defense attorney Jessica Jones, Jack Regenbogen from CCLP, Melissa Roberts from Parole and Mark himself. Mark then provided a PowerPoint presentation on the work to date (including a review of the first set of three recommendations) and the preliminary presentation of the second set of four recommendations.</p> <p><i>DISCUSSION POINTS</i> Mark described that true consequences of conviction include direct consequences, collateral consequences and other consequences. <u>Direct consequences include:</u></p> <ul style="list-style-type: none"> • Prison or jail • Probation • Community corrections • Restitution • Fines, fees and costs, and • Community service

<p>Issue/Topic:</p> <p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations (continued)</p> <p>Action:</p>	<p>Direct consequences are basically the things that are issued on a mittimus that will end one day.</p> <p><u>Collateral consequences include</u> things like:</p> <ul style="list-style-type: none"> • Employment • Public benefits • Family concerns • Immigration, and • Other rights, privileges and opportunities <p>Collateral consequences are prohibitions and disadvantages imposed on an individual as a result of the conviction of an offense. Both consequences are a product of the law but direct consequences are predictable, definite and generally expire, while collateral consequences are difficult to anticipate, potentially unknown at sentencing and may apply indefinitely. Other consequences can come from private employers, private landlords along with social stigma from friends and family.</p> <p>Research shows that gainful employment and stable housing are key factors that enable people with criminal convictions to avoid future arrests and incarceration. Second chances are critical for re-entry success.</p> <p>Mark went on to explain the process the group went through over the last 12 months to develop the recommendations. The first set of three recommendations was approved by the Re-entry Task Force in March and include:</p> <ul style="list-style-type: none"> • FY18-RE #01: Orders of collateral relief • FY18-RE #02: Private employment • FY18-RE #03: State licensure and employment <p>The second set of four recommendations, to be presented today for the first time, include the following:</p> <ul style="list-style-type: none"> • FY18-RE #04: Private Housing • FY18-RE #05: Public Housing • FY18-RE #06: Criminal records information • FY18-RE #07: Pretrial diversion <p><u>FY18-RE #04: Private housing</u> Current practice:</p> <p>Currently there is no enforcement mechanism in Colorado for asking about sealed records. There are also no state restrictions on other uses of criminal records. Currently there is no opportunity for someone to review a criminal history record that has been obtained by a landlord. Additionally there is no liability protection for landlords.</p>
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<p>Issue/Topic:</p> <p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations (continued)</p> <p>Action:</p>	<p>Proposed changes:</p> <p>The recommendation would make it an unfair housing practice to inquire about or act on records of non-pending arrest that did not lead to conviction, or records that have been sealed or expunged. The same would apply to covenants. The Civil Rights Division of the Department of Regulatory Agencies would be responsible for enforcement of the regulation. The proposal would allow someone to request a copy of the criminal history report obtained by a landlord. Landlords would be prohibited from asking about sealed non-conviction records.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • The goal of this recommendation is to promote housing opportunities for people with non-conviction, sealed and expunged records. • The language in the recommendation parallels the language in the Private Employment recommendation (FY18-RE #02). • The proposal would allow prospective tenants who have been refused housing due to a criminal history or credit record to have access to that report. • It would correct a statutory omission regarding landlords' inquiry into sealed records and would give landlords the same liability protections that employers currently have. • Tom Giacinti asked how often people are rejected for housing due to an arrest without a conviction. Mark replied that research shows a criminal justice record does pose a significant barrier for people trying to obtain housing. • When someone pulls a criminal history report from CBI it is very difficult for the layman reading the report to draw a distinction between an arrest and a conviction. <p><u>FY18-RE #05: Public housing</u></p> <p>Current practice:</p> <p>Currently there is no statutory guidance for public housing authorities.</p> <p>Proposed changes:</p> <p>The recommendation directs the Division of Housing in the Department of Local Affairs to provide guidance to public housing authorities. It would also direct public housing authorities to evaluate criminal records the same way the state does for licensure and employment. The Civil Rights Division of the Department of Regulatory Agencies would be responsible for enforcement of the regulation.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • Colorado currently places no restrictions on public housing authorities' ability to withhold or terminate housing based on an individual's criminal record. • The proposal includes a component for the Division of Housing to develop a written statement of best practices regarding the use of criminal history records by public housing authorities.
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<p>Issue/Topic:</p> <p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations (continued)</p> <p>Action:</p>	<ul style="list-style-type: none"> • As with the Private Housing recommendation (FY18-RE #04), the Civil Rights Division of the Department of Regulatory Agencies would be responsible for enforcement of the regulation. • Studies show that housing related consequences of a criminal record may disparately impact individuals and communities of color, and landlords can end up in trouble if they use criminal record restrictions in the wrong way. • This recommendation would prevent housing authorities from taking adverse action against someone based on arrests that did not result in conviction, sealed records and expunged records. <p><u>FY18-RE #06: Criminal records information</u></p> <p>Current practice:</p> <p>Currently the Colorado Bureau of Investigation reports arrest information, regardless of whether charges were filed. Additional information on court-related proceedings is available through LexisNexis VitalChek and Background information Services (BIS).</p> <p>Proposed changes:</p> <p>The recommendation would limit the distribution of records concerning arrests that did not result in charges. It also requires arrest records be open for inspection.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • This recommendation reflects a belief by the Working Group that people have a right to know what goes on in the courts. • The way the system is currently set up, arrest records are in the class of criminal records, which means a CBI history report includes every time an individual has been arrested and finger printed, regardless of whether that event ever resulted in charges being filed. • This recommendation would not limit the general public from obtaining information about charges or convictions; it simply aims to try to avoid the widespread, perpetual reporting of arrests that didn't result in charges or convictions. • It's about preserving an individual's right to privacy. • The recommendation includes one non-statutory component requiring CBI to provide interpretation guidance along with criminal record reports, explaining at a minimum the meaning of the various types of case dispositions. • Tom asked if the recommendation would result in different reporting of felonies versus non-felonies. Mark replied that the recommendation wouldn't change anything about the reporting of the severity of charges and/or convictions. But if someone is <u>arrested</u> but never charged or convicted – that information would NOT be available. • Mark went on to say that on some level this recommendation could be even more critical for someone arrested for something serious if no charges were filed.
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<p>Issue/Topic:</p> <p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations (continued)</p> <p>Action:</p>	<ul style="list-style-type: none"> • Richard reiterated how confusing CBI records are, even for people familiar with the criminal justice system. This is an effort to try and help people who do receive CBI information to have it be more meaningful. • A lot of people in the media also have trouble deciphering a CBI criminal history record. • Again, the key component of this recommendation is to provide information with the report that explains what everything means. <p><u>FY18-RE #07: Pretrial diversion</u></p> <p>Current practice: Currently, six new pretrial diversion programs have been started in Colorado and nine total programs are receiving funding.</p> <p>Proposed changes: This recommendation proposes the continuation or expansion of financial support for adult pretrial diversion program.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • This recommendation is basically a pledge of support for pretrial programs. • A CCJJ recommendation from 2013 resulted in the General Assembly replacing the previously-existing deferred prosecution statute with a “pretrial diversion” disposition option. • Since 2013, six of the 22 judicial districts have started new programs with the feeder money. An Additional three JD’s have requested money. • So far these programs are showing a lot of promise. • This is a non-statutory recommendation that the legislature continue to support the program. <p><i>SUMMARY and DISCUSSION</i></p> <ul style="list-style-type: none"> • These proposals are based on the principles that: <ul style="list-style-type: none"> -Involvement in the justice system should not result in collateral consequences that needlessly undermine individuals’ future success -That public policy should reflect emerging research indicating the predictive value of a past offense declines over time, and -That the public’s access to criminal history information must be better balanced with individuals’ right to privacy and the safety and welfare of society. • Mark asked the Task Force members if they had any questions or comments. • Rose noted that there are a lot of people who want to help offenders but there are also a lot that don’t.
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<p>Issue/Topic:</p> <p>COLLATERAL CONSEQUENCES WORKING GROUP Recommendation Presentation – 2nd set of recommendations (continued)</p> <p>Action:</p>	<ul style="list-style-type: none"> • Tom said he believes that the longevity of the record is often a problem and that, like bankruptcy, items should be erased from the record after a certain period of time. • Mark replied that the group had a fair amount of discussion about the longevity of people's records but that the issues are tricky. For example, if someone was convicted 20 years ago but just got out yesterday, there's an argument that the information should be made available. • When it comes to conviction, sentence and release date - it's unclear how changes in technology could impact research on picking a timeframe on the right amount of time to make someone's record no longer available. • Mark added that the group was trying to conscientiously come up with ideas that are a step in the right direction without alienating people who may not be on board with bigger reforms. • The group worked to identify doable actions while hoping to help people understand the issues. • The political landscape can be challenging so the group came up with ideas that had merit and were palatable to many on a broad perspective. • Additionally, mandating other agencies to do something has proven to be problematic.
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<p>Issue/Topic:</p> <p>NEXT STEPS</p> <p>Action:</p> <ul style="list-style-type: none"> • The recommendations from the Collateral Consequences Working Group will be presented for a vote on July 12th 	<p>Discussion:</p> <p>Richard summarized that the final four recommendations from the Collateral Consequences Working Group will be presented to the full Task Force for a vote at the July 12th meeting. If they are approved they will be presented to the full Commission on July 14th.</p>
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Next Meeting

July 12, 2017 1:30pm – 3:30pm 700 Kipling, 4th floor training room