



Commission on Criminal and Juvenile Justice

Minutes

April 8, 2011
U.S. Dept. of Transportation
12300 W. Dakota Ave., Lakewood, CO

Commission Members Attending:

James H. Davis, Chair	Tom Clements	Alaurice Tafoya-Modi
David Kaplan, Vice-Chair	Jeanne Smith	Charles Garcia
Peter Hautzinger	Tom Quinn	Regina Huerter
Bill Kilpatrick	Don Quick	Debra Zwirn
Inta Morris	Gilbert Martinez	Doug Wilson
Michael Dougherty	Claire Levy	Michael Anderson
Rhonda Fields		

Absent: Reo Leslie, Reggie Bicha, Regis Groff, Steve Siegel, John Morse, Ellen Roberts, Grayson Robinson

Call to Order and Opening Remarks:

James Davis, Chair, called the meeting to order at 12:46 p.m.

CCJJ Legislative Updates:

Jeanne Smith gave a brief update to the members on current CCJJ legislation.

1. SB11-96: Concerning Excluding a Class 6 Felony Drug Possession Conviction as a Qualifying Offense Under the Habitual Offender Statute. This legislation was signed by the Governor on March 25.
2. HB11-1064: Concerning a Parole Presumption Pilot Program for Certain Drug Offenders. Passed House Judiciary on February 8th and House Appropriations today. It goes to the House floor next.
3. HB11-1167: Concerning the Petition Process for the Sealing of Certain Drug Offense Records. Signed by the Governor on March 29.
4. HB11-1189: Concerning Bail Bond Conditions for Those Arrested for Subsequent Substance Abuse Driving Offenses. The final version of the bill is amended to state that the bond condition for one or more previous DUI or DWAI convictions shall be monitored abstention from alcohol or the illegal use of drugs and that the court shall consider whether the defendant is voluntarily enrolled in treatment when determining whether to grant relief from bond conditions. The bill is awaiting the Governor's signature.

5. HB11-1268: DUI Clean-Up (Technical corrections to HB 10-1347). Addresses unintended consequences created by HB10-1347 for first-time DUI violations. Passed Senate Judiciary on March 29th. The House amendment clarifies that probation is mandatory for second and subsequent offenses but discretionary for first time offenders and that courts have the discretion to suspend fines for first and subsequent offenses. Set for second reading.
6. HB11-1261: DUI-D Per Se. This bill sets a level of 5 nanograms of THC per liter of blood to determine drug impairment when driving. Passed by the House on March 23 and is scheduled for Senate Judiciary on April 18th.
7. HB11-1278: Sex Offender Registration. This bill creates a simultaneous termination hearing/de-registration process for juveniles and adults with a deferred judgment who are currently eligible for de-registration. Also establishes a consistent fee of up to \$25 for each registration event and clarifies and makes consistent various registration requirements. Passed House Judiciary on March 22 and House Appropriations on April 6th. Passed on second reading in the House on April 8th. Amendments include defining transient, making the petition process within DHS for juveniles permissible, requiring notice to the Juvenile Parole Board regarding juvenile deregistration, clarifying the affirmative defense process for uncontrollable circumstances as permitted by the Adam Walsh Act, and removing a section covered by SB11-007.
8. SB11-186: Concerning the Establishment of an Alternative Bond System. This bill allows for a bond to the court and special bond restrictions if the jurisdiction wants to create an alternative bond system. Passed Senate Judiciary on March 9th and is awaiting hearing in Senate Appropriations.
9. Sex Offender Sentencing: Not yet introduced.
10. Creating a Standardized Mental Illness Screening Instrument. Not yet introduced.
11. HB11-1138: Concerning the Sex Offender Management Board. Although not a CCJJ bill, the Commission tracks the progress of this bill. The bill extends the sex offender management board for 5 years and revises the board's duties. Passed the House on March 9th and will return to the Senate Committee on the Whole but is not yet scheduled.

An issue was raised regarding the status of Sudafed. It was stated that this should go through Drug Task Force before coming to the Commission.

David Kaplan wants to establish rules regarding how bills go through the legislative process. The group needs to discuss what happens to a bill that is changed so much that it no longer carries CCJJ support. What happens to recommendations when a sponsor cannot be found? Also, we would want to know where the Governor stands on a piece of legislation. That will impact how strongly (if at all) departmental lobbyists work on a bill. The Commission will better define these issues after the session is over, discuss protocol and set a policy.

Regi Huerter said that we need to make sure that as we move things through the CCJJ that we make sure there are no unintended consequences to juveniles.

Pete Hautzinger: When will the Commission hear from Governor Hickenlooper? Ideally next month.

CCJJ Behavioral Health Initiatives Update:

On behalf of the Commission, the Division of Criminal Justice (DCJ) applied for three grants to address CCJJ recommendations. DCJ received \$4.3 million in Justice Assistance Grants (JAG) that have been used to fund three CCJJ initiatives. They are:

The Metro Crisis Center which received \$745,000, The Division of Behavioral Health's Criminal Justice Clinical Specialist program which received \$2.4 million, and The Department of Public Safety's Evidence-Based Practices Training Center (EPIC) which received \$2.10 million.

1. Metro Crisis Services Update, presented by Daniel Ward.
 - a. Four years ago, a group of subject matter experts from the seven metro counties gathered to discuss mental health and substance abuse services that were not being accessed by individuals who needed treatment. The effort was supported by local hospitals, local foundations and the Robert Wood Johnson Foundation.
 - b. The group developed a plan for individuals to access care through a continuum of crisis care including a free 24/7/365 professionally-staffed crisis hotline, a complete database of every mental health and substance abuse treatment center in Denver, and Crisis Center that had an urgent care clinic and beds for short-term observation and stabilization.
 - c. In the seven metro counties, 681,000 (approximately) people will have a diagnosable mental health or substance abuse issue in the next twelve months. Statewide, there will be over 1.2 million people (approximately).
 - d. Emergency rooms have often been used as a means for individuals to obtain mental health and substance abuse treatment. In 2010, approximately 80,754 adults and 34,609 children who went to the emergency room had a primary diagnosis of a mental health or substance abuse disorder. Last year an estimated 4,195 people were treated in metro Denver hospital emergency rooms following suicide attempts and non-fatal self-harm.
 - e. The JAG grant enabled the hiring of an executive director, management staff and clinicians. In June 2010, intensive outreach began for 37 metro Denver law enforcement agencies. A call center was constructed in June 2010.
 - f. The call volume is at a rate to handle 5,000 callers this year. The call center has already fielded calls from six individuals with homicidal intent. The call center was able to de-escalate the situation and law enforcement was notified.
 - g. The next steps are to build the crisis centers and expand the crisis lines.
 - h. Metro Crisis Services has applied for a one-year extension of the grant.
 - i. What about individuals not in the Denver Metro area? The call center has an 800 phone number and they have received calls from everywhere. They don't screen individuals out. However, their database may not have all of the local resources for someone outside of the metro area.
 - j. Do you have a vision of moving into the rural areas? Expansion is built into the concept, and Metro Crisis Services has asked the Division of Mental Health how to expand this statewide.
 - k. What is the idea to keep this going? Have support from City of Golden and Arapahoe County and they are working on grass-roots support and philanthropy. Developing earned revenue sources.

1. Has there been any thought to partnering with the criminal justice system - such as developing mental health courts? They have provided training and information to local probation and parole staff and are open to this partnership.
2. Criminal Justice Clinical Specialist (CJCS) Program, presented by Jagruti Shah.
 - a. Upon release from jail or prison, individuals with behavioral health disorders face numerous community challenges. Where do they start?
 - b. The correct place to start with assistance is before an offender's release from corrections and should continue after his/her release. Their focus is to ensure offenders with behavioral health disorders have coordinated access to community treatment.
 - c. The goals of this program are to reduce recidivism and enhance successful community re-entry. Establish a primary point of contact for criminal justice agencies at mental health centers.
 - d. The Division of Behavioral Health selected 10 community-based behavioral health providers via a competitive bid process.
 - e. The role of a criminal justice clinical specialist is to be the point of contact (POC) for criminal justice referrals. The POC coordinates with referring criminal justice agencies, provides direct case management, aligns offender supervision/release requirements with community treatment agency services and provides clinical assessment and treatment services for offenders.
 - f. We launched an online Client Data Tracking database. Last year, they served 737 clients. There have been numerous client placements in jail diversion programs and residential treatment programs. They assist clients with the cost of medication and/or treatment co-pays when no other funding was available. Some centers can assist an individual by to obtain birth certificates.
 - g. One challenge the POC faces is the inability to stay in touch with homeless clients. Also, resources vary depending on area. One center can assist with blood work while another cannot. There is a high turn-over of CJCS case managers.
 - h. The program evaluation plan was completed in October 2010. The final outcome analysis is due in January 2012 and will include recidivism data, clinical outcomes, cost savings, and comparison group analyses.
 - i. How is this program assisting with offenders obtaining access to new Medicaid benefits? When some offenders leave DOC and are placed on parole or at halfway houses, they are still given the classification of "inmate status" which disqualifies them from Medicaid benefits.
 - j. What are the obstacles they find when dealing with DOC? About three months prior to release, DOC creates a list of individuals to be released but DOC will not release the list because of confidentiality issues. This program has had limited success by going directly to the prison.
3. Evidence-Based Practices Implementation for Capacity (EPIC), presented by Diane Pasini-Hill and David Bonaiuto.
 - a. EPIC is the result of collaboration between several departments: Community Corrections Unit in the Division of Criminal Justice, Department of Corrections,

Division of Behavioral Health, and Judicial. Right now the project is focusing on motivational interviewing and mental health first aid.

- a. How do you make someone motivated to change? What does and doesn't work? Motivational interviewing is a collaborative style of communication to strengthen a person's own motivation for and commitment to change.
- b. Motivational interviewing started in the mental health field.
- c. EPIC staff is seeing an increase in skill level of motivational interviewing with training, feedback and coaching. Offenders are also changing their statements about what they can do.
- d. Change is difficult, but it is possible to change. We can have an impact on whether or not someone changes.
- e. EPIC staff provides a two-day workshop in motivational interviewing. Afterward, these individuals practice their skills and tape it. The tape is submitted to staff and is reviewed. Feedback is given.
- f. Training sessions are given to a wide variety of groups including probation, parole and DOC among others. etc.

Disproportionate Minority Contact / Minority Overrepresentation:

Christine Adams gave an overview of the driving factors behind minority overrepresentation (MOR) as well as what some solutions might be and what's happened in Virginia and Iowa.

There are several driving factors behind MOR and disproportionate minority contact (DMC):

1. Over involvement in crimes by individuals in these populations.
2. Community risk factors.
 - a. Juveniles who live in high risk communities are more likely to be involved in and arrested for criminal activities.
3. Educational system failures such as inadequate early childhood education, lack of appropriate cultural education.
4. Lack of adequate resources such as diversion programs, culturally appropriate juvenile services and cultural understanding within the juvenile justice system.
5. Socioeconomic status and family structure.
 - a. Living in the inner city, broken families, families on welfare, children with criminal involved parents.
6. System bias.

Within Colorado, minority youth are overrepresented at almost every stage in the criminal justice system. There are only two areas in which minorities are under-represented: deferred sentences for misdemeanor or felony filings. However, when it comes to certain stages in the system, underrepresentation of minorities can be as harmful as overrepresentation. For example, the underrepresentation stated here means that the minorities are receiving harsher sentences.

What are some possible solutions for Juvenile system?

1. Mandatory conference with parents.
2. Pre-arrest diversion for 1st time offenders.
3. Extended hours for receiving agencies.

4. Involve community leaders and residents.
5. Provide a conducive neighborhood environment.
6. Mobilize all segments of the community, family advocacy training.
7. Parent counseling, communication skills.
8. Collaboration between school board and parents
9. Promote mentoring and homework assistance programs, address dropout and truancy issues.
10. Provide conflict resolution strategies.

The next topic to be discussed is a follow-up to last month's presentation regarding how other states handle minority overrepresentation.

Iowa has mandated that all legislation that will affect minorities have a minority impact statement. However, Minority impact statements are not directly related to minority incarceration rates as these are only done on proposed legislation, not on existing criminal code and sentencing practice. Thus, the legislation that created the MOR to begin with will not be affected. These impact statements should be applied retroactively to existing law to have an effect.

Virginia has studied their sentencing guidelines which were created in the mid-80's:

1. The purpose was to establish rational and consistent sentencing standards to reduce unwarranted sentencing disparity.
2. These guidelines are voluntary – judges may use them as a reference but are not constrained to them.
3. Virginia conducted research to see if the guidelines worked. They looked at four different crimes (burglary, larceny, drugs and robbery) and the decisions that were made before and after the guidelines were used. Overall, the percentage of decisions accounted for by extralegal factors (including race) went down after the sentencing guidelines went into effect.

Regina Huerter made a presentation on how the City and County of Denver is addressing racial disparity.

1. In 2000, Denver established the Biased Policing Task Force.
2. In 2005, the Crime Prevention and Control Commission (CPCC) was established by city ordinance and was directed to look at how to reduce the jail population.
3. In 2009, the CPCC established a subcommittee called the Racial and Gender Disparity Committee to examine minority over-representation. This committee is comprised of seven community members and 13 CPCC members. Their work focuses largely on the adult system.
 - a. Five stages of work: Identification and Monitoring, Assessment, Preparation at the local level, Interventions and Evaluation.
4. Possible mechanisms causing disparity: Differential behavior, mobility effects (sporting events agitate people, is the area one that is affected by spring break or a known tourist destination?), indirect effects (economics, education, single parents), differential opportunities for prevention and treatment (access to diversion).
5. In obtaining its data, Denver is looking at the main decision points.

- a. Police contact is officer initiated and calls for service. Some officers do not collect race or ethnicity unless there is a victim involved. Then the race is determined, primarily by the officer's observation. Many Hispanic individuals were considered "white" which skewed the data.
- b. Custodial arrests are arrests at the local jail. Better data is obtained at this decision point.
6. Custodial arrests show that 10/1000 Whites are arrested as opposed to 140/1000 Blacks and 70/1000 Latinos.
7. There are many challenges to obtaining this data. It is resource intensive, the data systems for the police and sheriff have changed, the City Attorney's office is bringing on a new data system, and the District Attorney does not include race/ethnicity in its tracking of cases.
8. The next steps are to complete the data collection at the remaining decision points. Select a population for further examination, assess causes, develop interventions and evaluate the interventions. Incorporate the social/economic information, victim data and conduct an analysis by census of the neighborhoods.
9. The CPCC spent a long time developing a structure and purpose to studying this issue. In addition to having minority representatives on the group, it is also important to have a voice for the neighborhood. Neighborhoods view activities in different ways. There also has to be a willingness to express different views and being respected.
10. Can some changes be instituted now? Only two decision points have been examined. All decision points need to be reviewed to ensure consistency.
11. There is a lot of information that is contained in municipal courts that is not being collected.

Tom Quinn presented a report from the Minority Overrepresentation Committee of the CCJJ. The committee examined data found in DOC and State Judicial. Further discussion of this information will take place next month.

1. Nationwide, more African Americans are arrested, incarcerated, denied early parole and re-arrested than would be expected given their representation in the overall population.
2. In Colorado, African Americans are disproportionately represented in the areas of arrests, filings, convictions, incarceration, parole release and probation failure. There is similar evidence for Hispanics.
3. The staff of both the DOC and the State Courts was examined in relation to the clients they serve. Compared to DOC offenders, a smaller percentage of DOC staff is African American or Hispanic. The Court staff, as compared to the probation population, is low in African Americans and high on Caucasians. Has anyone examined the racial make-up of district attorney's offices? No.
4. Research on "what works" to reduce racial/ethnic disparity is limited.
 - a. Research should examine where in the criminal justice system the most adverse impact occurs for adults.
 - b. Race and ethnicity should be measured with separate items in order to more accurately assess Hispanic over-representation.
 - c. Is there some evidence to suggest that an increase in education is associated with a reduced risk of arrest and incarceration?

- d. A lack of legitimate employment opportunities can lead to crime and a criminal history can be a barrier to employment.
5. A multimodal approach may be most effective because many factors contribute to minority overrepresentation. Collaboration between agencies is essential.
6. Some suggestions on how to prevent MOR:
 - a. Equalizing Access to Services: Identify and fill gaps in services to juveniles and adults. For example, prevention and early intervention programs such as increasing mentoring and after school programs for minority youth should be balanced.
 - b. Improve cultural competence: Develop high quality cultural competence training with an emphasis on skill building and case management. Collaborate with stakeholders from other agencies and invite them to develop a joint action plan. Recruit minorities to serve on community and advisory boards. Provide culturally appropriate services grounded in the value system, traditions and language of the group being served.
 - c. System change: Review proposed and existing criminal justice legislation to determine whether it will create an adverse impact. Adopt structured decision making instruments for parole and probation violation.

Other issues discussed before the adjournment of the meeting:

Is anyone examining the attendance of Commission members? DCJ staff is looking at the attendance of every member as well as examining the by-laws of the Commission. A report will be brought back to the group in June.

The meeting adjourned at 4:22 p.m.