



Commission on Criminal and Juvenile Justice

Minutes June 14, 2013

Jefferson County District Attorney's Office
500 Jefferson County Parkway
Golden, CO 80401

Commission Members Attending:

James H. Davis, Chair	Bill Kilpatrick	Debbie Rose
Doug Wilson, Vice-Chair	Steve King	Alaurice Tafoya-Modi
Matthew Durkin	Julie Krow	Peter Weir
Kelly Friesen	Evelyn Leslie	Anthony Young
Charles Garcia	Claire Levy	Dave Young
Kate Horn-Murphy	John Morse	Steve Hager (Temp. for DOC)
Regina Huerter	Norm Mueller	Jeanne Smith, <i>Ex Officio</i>
Henry Jackson, Jr.	Eric Philp	

Absent: Mark Waller, Theresa Cisneros, Grayson Robinson, Sallie Clark

Call to Order and Opening Remarks

The Chair, James H. Davis, called the meeting to order at 12:44 p.m. and reviewed the day's agenda. Mr. Davis introduced two individuals who have been appointed by the Governor to the Commission, effective July 1, 2013, to fill the positions of those completing their terms of service. Boulder County Sheriff Joe Pelle has been appointed as the Sheriffs' representative, replacing Arapahoe County Sheriff J. Grayson Robinson, and Lakewood Police Chief Kevin Paletta has been appointed as the Chiefs of Police representative, replacing Golden Police Chief Bill Kilpatrick.

Debbie Rose moved to approve the Minutes from the May 10, 2013 Commission meeting. Dr. Anthony Young seconded the motion. The motion passed by unanimous vote.

CCJJ Outreach Updates

Jeanne Smith gave an update on an initiative to increase the Commission's outreach to Colorado stakeholders and communities. The Commission continues to coordinate the logistics to offer a presentation at the next conference of the Colorado Organization for Victim Assistance (COVA) in Keystone (Oct. 27-30). Kate Horn-Murphy has agreed to act as the liaison between the CCJJ and COVA. Members of the Commission continued their discussion from previous meetings on the topic of conducting Commission meetings in other areas. Due to the time required on the agenda during the fall meetings to discuss and vote on recommendations, "off-site" meetings may not be optimal at this particular time of the year. Nonetheless, Commission members were asked to submit suggestions to DCJ staff for potential locations to hold such "outreach meetings."

Task Force and Subcommittee Updates

Comprehensive Sentencing Task Force

The Comprehensive Sentencing Task Force approved a recommendation that will be presented to the CCJJ in September regarding a policy to allow habitual offenders sentenced to 40 calendar years or more the ability to obtain earned time.

The Task Force has also formed a Value-based Working Group intended to develop a sentencing structure for non-violent, value-based crimes building on previous work by the Task Force that resulted in a sentencing grid that clarified and consolidated theft crimes (House Bill 2013-1160).

A Sex Offense Working Group has also been formed. This group met for the first time on June 12, 2013 and members are currently immersing themselves in and reviewing the current sentencing structure for sex offenses.

Finally, the Legislature asked the Task Force to reexamine the extraordinary risk elimination bill (House Bill 2013-1148) that was introduced, but withdrawn last session. A small working group will be working with the Commission's legislative drafter to fine tune the bill. Michael Dohr is the bill drafter from Legislative Council that has been assigned to the CCJJ.

Community Corrections Task Force

Paul Herman gave an update on the work of the Community Corrections Task Force. This group has now met twice and is currently developing a better understanding of the potential areas for improvement in the existing Community Corrections system. The first meeting about the processes and functions of the existing system resulted in many questions that began to be addressed in the informational second meeting.

The Task Force created a System-mapping Work Group to develop flow charts for the four or five different classes of offenders who are sentenced to Community Corrections. These charts will illustrate who is sentenced to community corrections, and at what point and by whom. These charts are intended to provide an illustration of the complexity of the Colorado system as well as to establish a starting point to explore where changes may or may not be needed.

Juvenile Justice Task Force

Regina Huerter stated that the Juvenile Justice Task Force has created three working groups. One working group is tasked with assessments and how they are rolled out; a second is investigating possible modifications to all of Title 19, if the Colorado juvenile system is modified to include a civil adjustment process; and a third is focused on service provision. Specifically, what services are available if the juvenile is not adjudicated.

Although working groups will meet in July, the Juvenile Justice Task Force has cancelled its July meeting. The next meeting of the task force is, therefore, August 2.

Legislative Mandates:Jessica's Law

The Commission received a letter from the Governor and Legislative leaders asking the Commission to examine "Jessica's Law" to determine whether its adoption would enhance Colorado law. The Jessica Lunsford Act was passed in Florida (Florida House Bill 2005-1877) and comprises several provisions to address sexual predators and offenders who target children. A similar bill was introduced at the federal level (H.R. 1505, 109th Congress, 2005-2006), but, when it was not passed, many states subsequently passed variations of the law.

Jessica's Law has several features that differ from Colorado's current sex offender law. Jessica's Law requires a 25-year minimum mandatory sentence for sex assaults on a child under the age of 12. While the age threshold that defines a "child" varies from state to state, in Colorado, a child victim is someone under 15. There are also inconsistencies between states regarding what constitutes a "sexual assault" with some applying a minimum mandatory scheme for only acts of penetration while others require that the acts of sex assault must have occurred repeatedly. Jessica's Law also suggests electronic monitoring of a suspect who is on probation or parole. Because Colorado has a provision for indeterminate sentences to probation and/or parole, it is conceivable that an offender could be required to be electronically monitored for life.

The letter also requests the Commission consider the impact Jessica's Law has had in other states. Very few states have the resources to evaluate the effect of their implementation of Jessica's Law. Washington State appears to have devoted extensive funds to conduct research on the topic, but has been unable to draw definitive conclusions regarding the impact of its implementation.

- If you are aware of studies that have been done (treatment or sentencing) elsewhere regarding Jessica's Law, please forward this information to DCJ staff (germaine.miera@state.co.us).

The report of the review is due by January 2014. DCJ staff will prepare a paper and present findings to the Commission for review and discussion to allow time to prepare a final report before the deadline.

Human Trafficking

House Bill 2013-1195 requires that the Commission examine the implementation of the provisions of C.R.S. Title 18, Article 3, Part 5 (Human Trafficking and Slavery). This request requires a report to cover specific data and information surrounding such cases as covered by the statute and is due by January 1, 2014. On behalf of the Commission and because a Task Force has not been created to conduct this study, DCJ staff will develop a report to be presented in November for review and discussion by the Commission.

Marijuana Law

The Commission is required by Senate Bill 2013-283 to examine marijuana issues specific to the passage of Amendment 64 (Section 16 [Personal Use and Regulation of Marijuana] of Article XVIII of the State Constitution) with a report due to the General Assembly by December 15,

2013. In order for the Commission to meet this deadline, members will be required to vote on recommendations by September 2013. Although the Drug Policy Task Force was put on hiatus, it will be reconstituted to address this issue.

The Drug Policy Task Force was chaired by Grayson Robinson whose term on the Commission has expired. Thus, a new membership list will be named by Mr. Davis and Mr. Wilson (this “new” membership list will include members of the original task force, if appropriate for this task). Eric Philp and Charlie Garcia will be the new Chair and Vice-Chair, respectively. Confirmations to continue participation have been received from Brian Connors, Senator Pat Steadman, and Maureen Cain and responses are still pending from potential appointees Dan Rubenstein, Tom Raynes, Rep. Mark Waller and Marc Condojani. The names of additional potential appointees are still pending. Ms. Huerter stated she has not received the email and is concerned as Denver has a large stake in this issue and may not be represented adequately.

Recognition of CCJJ Members:

Mr. Davis recognized the three Commission members who have completed their appointed terms of service to the Commission. These individuals include Regina Huerter, Bill Kilpatrick and Grayson Robinson. On July 1, Dr. Young will be rotating off the Commission as well.

(Members took an extended break at 1:22 p.m.)

Bill Drafting

Mr. Davis reconvened the meeting at 2:03pm. He introduced Michael Dohr, a Senior Staff Attorney in the Office of Legislative Legal Services, who works on the team that drafts bills in the area of civil and criminal law. Mr. Dohr has been assigned to draft bills derived from Commission recommendations. He proposed a procedure he would like to follow for this process.

Mr. Dohr explained a process, whereby,

- a). Working groups would develop recommendations and bring them to the appropriate task force. Once there is consensus by the task force, the drafting of the bill should begin.
- b). When a draft of the bill has been developed, it can be vetted through the task force and Commission. The drafted bill will be distributed to task force members prior to any votes with a request for any changes. The process would be repeated with Commission members.
- c). Legislative sponsors would then be found for the bill. Once the bill has been drafted, and a sponsor is identified, it can be amended through the normal process.

Concern was expressed that recommendations would be “converted” into a bill prior to any discussion of the original recommendation by the Commission as a whole. It was stated that the underlying concepts and elements of a recommendation can be and often are refined or the

recommendation returned to a task force for more work when the Commission as a whole has an opportunity to debate its provisions. If a bill has been drafted from a recommendation prior to Commission review, the opportunity for refinement and revision is lost prematurely. With this feedback in mind, revised procedures will be developed and presented at the next meeting.

The Commission meeting on July 12, 2013 was canceled. The next meeting will be August 9, 2013 from 12:30 – 4:30 at the Jefferson County District Attorney's Office.

The meeting adjourned at 2:15pm.

Post-Meeting Presentation

(An optional presentation followed the conclusion of the Commission meeting that was not part of the official Commission agenda. This presentation was considered an alternate view of the perspectives offered in the film "The House I Live In" that was similarly an optional presentation prior to the January 11, 2013 meeting of the Commission.)

A Drug Agent's Perspective on the Drug War

Jeff Sweetin, a former Special Agent in Charge of the Denver (Rocky Mountain) Division of the U.S. Drug Enforcement Administration (DEA), offered a presentation about the work the DEA has done to enforce controlled substances laws and reduce the availability of illicit controlled substances (For more information, see the DEA website, www.justice.gov/dea/, or the Denver Division subsite at www.justice.gov/dea/divisions/den/den.shtml).