



Colorado Commission on Criminal and Juvenile Justice

Minutes

September 12, 2014
 Jefferson County District Attorney Building
 500 Jefferson County Parkway
 Golden, CO

Commission Member Attendance

Stan Hilkey, Chair	Steve King - ABSENT	Walt Pesterfield for Rick Raemisch
Doug Wilson, Vice-Chair	Julie Krow	Brandon Shaffer - ABSENT
Jennifer Bradford	Evelyn Leslie	Pat Steadman
Theresa Cisneros	Beth McCann	Alaurice Tafoya-Modi - ABSENT
Sallie Clark - ABSENT	Jeff McDonald	Mark Waller
Matthew Durkin	Norm Mueller	Pete Weir - ABSENT
Kelly Friesen	Kevin Paletta	Meg Williams - ABSENT
Charles Garcia	Joe Pelle	Dave Young
Kate Horn-Murphy	Eric Philp - ABSENT	Jeanne Smith, <i>Ex Officio</i>

CALL TO ORDER AND OPENING REMARKS

Commission Chair, Stan Hilkey, called the meeting to order at 12:38 p.m.

Joe Pelle moved the approval of the meeting minutes from the August 12, 2014 CCJJ meeting. Evelyn Leslie seconded the motion. The motion passed and the minutes were approved by a unanimous vote.

Mr. Hilkey acknowledged this as the last meeting for Mark Waller and recognized Mr. Waller’s contribution to the work of the Commission.

PEW-MACARTHUR RESULTS FIRST INITIATIVE

Erick Scheminske, Deputy Director of the Office of State Planning and Budget (OSPB), introduced the concept of the PEW-MacArthur Results First Initiative (“the Initiative”; pewtrusts.org/en/projects/pew-macarthur-results-first-initiative). The Hickenlooper administration is focused on improving the relationship between state employees and their customers. The Initiative is also focused on the customer with the goal of providing the right service, to the right individual, in the right way, and at the right time.

The Initiative is a joint project between the Governor’s Office and the Legislature, which has provided funds to support the Initiative efforts. The purpose is to help state policy makers identify and invest in programs that work in criminal and juvenile justice, in child welfare, and in mental health. Following the effort to build the Results First database in these areas, it is expected the effort will be generalized to other areas in state government to enable state employees to better serve the citizens of Colorado.

Mr. Scheminske introduced Sara Dube and Joshua Watters of the PEW-MacArthur Results First Initiative who spoke more specifically about the Initiative with the aid of a slide presentation. The Initiative is a joint project of the PEW Charitable Trust and its partner foundations. In making funding decisions, policy makers typically lack critical return-on-investment information. This method of information collection and analysis can assist policy makers in the identification of programs that work and that will provide good return on taxpayer investment. Pew works in a variety of policy areas, but will be starting in Colorado with adult and juvenile justice and child welfare, but, at the wishes of the state, can expand the model to other related social policy areas, such as early childhood education, K-12 education, substance abuse, and mental health.

Ms. Dube explained that the Results First approach is completely driven by the state. PEW provides the technical assistance, but does not advocate or drive the decision about policies or how funds should be spent. Instead, the focus is to build the capacity to capture the relevant data necessary to inform decisions and how to use the data to make decisions. The critical policy challenge is to make smart budget decisions, especially during times of fiscal constraint. Often the only methods available are incremental budgeting or across-the-board cuts that are not particularly strategic. Policy makers often have insufficient information about the inventory of programs offered, the costs of the programs, program effectiveness, and program alternatives. The decision challenge is not one of complexity, but simply one of data availability and aggregation.

It is the purpose of Results First to provide this important tool. The process involves several steps:

- 1) Identify where state funds are being spent.
- 2) Develop comprehensive program inventories.
- 3) Compare the programs offered to the programs that research has identified as most effective.
- 4) Determine the cost effectiveness of the programs being offered.

Ms. Dube stated that the PEW team has developed a suite of resources to assist states in the above steps.

- The inventory of programs is matched against the known evidence-based and best practices, costs and their degree of effectiveness.
- Additionally, the Results First approach provides a cost-benefit analysis of the programs being offered. The analysis draws on extensive national research to determine the effectiveness of programs. The analysis will use Colorado's own population and fiscal data to calculate the expected program benefits resulting in a state-specific, return-on-investment estimate for each program.
- After the model is built, a report on the return on investment of programs is created. The report contains a list of programs, the per person cost, the long term benefits (both to taxpayers and society), and a cost-benefit ratio.
- With this information, policy makers have the information and ability to direct funds toward evidence-based programs. The goal is to achieve dramatic improvements with the strategic investment of existing funds.

Mr. Watters provided a summary of PEW-MacArthur's partnership with 16 states and of the status of the partnership with Colorado. The underlying concepts of the Initiative were developed in Washington State about 20 years ago. The partnering states are found across the entire country from the East to West Coast. Of the 16 states, nine have implemented the model and have presented results to legislators and stakeholders while the other states have enacted Results First as a part of the legislative process or utilized Results First outcomes to shape legislation. Five states have used the model to target \$80 million in funding to effective programs.

In Colorado, the Initiative is supported by both the Governor's Office and the General Assembly and has accomplished the following:

- The project is to focus on adult criminal justice, juvenile justice and child welfare.
- The Joint Budget Committee funded two positions in the Governor's Office of State Planning and Budget (OSPB) to coordinate the program activities related to the Initiative.
- The Initiative aligns with the Governor's Three E's...a commitment to efficient, effective, and elegant government.
- The individuals in OSPB have begun to compile the program inventory and the data necessary to populate the Results First model.
- The Governor's Cabinet is serving as the required policy work group in support of the Results First Initiative.
- A goal has been set for the completion of the model in the three policy areas by July 1, 2015 for the next budget cycle.

Mr. Watters and Ms. Dube offered specific examples of the use of the Results First model in three partner states: New Mexico, Iowa, and New York. The entity with whom PEW works in each state is slightly different, but most tend to be with Governor's offices, the Departments of Correction, sentencing commissions, or the Legislature. The State of New Mexico has issued cost-benefit reports and used its results to place \$50 million in evidence-based programming for early education, child welfare and criminal justice. Iowa replaced an ineffective domestic violence treatment program that was losing \$3 for every \$1 that was invested. Working with the University of Iowa, they created a new treatment program built on evidence-based research in cognitive-behavioral therapy that is more effective. The State of New York has used the Initiative to formulate its public safety budget. New York reinforced its commitment to evidence-based policy by passing the 2014-2015 budget with \$15 million earmarked toward evidence-based, alternatives-to-incarceration programs. So far, \$5 million in competitive grants have been awarded based on analyses from the Results First cost-benefit model.

Mr. Watters concluded the presentation by describing the role of PEW and the role of the partner states in a Results First effort. The participating state is asked to:

- Provide leadership support,
- Appoint a policy work group,
- Provide technical work group staff and a project manager, and
- Participate and collaborate as a member of the Results First learning community to share experiences and expand the model.

PEW provides:

- the cost-benefit model to the state free of charge

- training for staff who will use the model
- ongoing technical assistance to work with the model and to help with data and analysis issues,
- assistance with the interpretation of results to guide policy decisions, and
- a forum to compile and share experiences and to expand the model

The presentation concluded and Commissioners were provided an opportunity for questions.

Discussion

- PEW has previously presented to the Commission on the Justice Reinvestment Initiative (JRI). Are these PEW programs related or independent?
 - The JRI which is part of the PEW Public Safety Performance Project and the Results First Initiative are completely separate initiatives.
- There is support from the Executive and Legislative Branches. Is there support from the Judicial Branch?
 - The Judicial Branch is participating in the technical working groups and has been invited to the policy work group meetings. Staff representatives from the State Court Administrator's Office have attended all the meetings. PEW has not sought a letter of support from the Judicial Branch because it is not a policy-making branch.
- How does the Results First Initiative relate to the PEW Charitable Trusts work in the juvenile justice area? PEW has said it could also collect data on juvenile justice issues.
 - This juvenile work is part of the previously mentioned Justice Reinvestment Initiative of the PEW Public Safety Performance Project. The initiative staff in adult and juvenile justice work with policy makers to develop specific policy options. On the other hand, Results First focuses on providing assistance to increase the capacity to expand program data and on how to use cost-benefit analyses to target money to the most effective services. Another difference is that Results First can apply to a much broader range of services (than just criminal and juvenile justice), but uses a very specific method, cost-benefit analysis.
- It would be advantageous for PEW/Results First to disseminate this information to human services groups (for example, county human services partners in the child welfare arena, the Colorado Human Services Directors Association, Colorado Counties Inc., including those working in adult services).
 - The work has only just begun in Colorado, but PEW would welcome the opportunity to present to any suggested or interested groups.

NAPSA VIDEO PRESENTATION

Mr. Hilkey introduced a video (youtu.be/1pwPR7VkGr0) that was produced by the Pretrial Justice Institute and presented on September 7th as part of a keynote address at the National Association of Pretrial Services Agencies (NAPSA) Conference in Denver. The video highlights the Colorado Pre-Trial Risk Assessment tool (the CPAT) and the work done by the Commission and the Commission's Bail Subcommittee. The CPAT provides risk assessment information to

those involved in pretrial decision-making and case processing and assists in bail/bond setting and the strategic use of limited jail beds for individuals with a higher risk to reoffend. Mr. Hilkey congratulated the Commission and Subcommittee members for the national recognition of their work.

NIC'S EVIDENCE BASED DECISION MAKING INITIATIVE: UPDATE

Mr. Hilkey updated the Commission on the Commission's Evidence Based Decision Making (EBDM) efforts. Several states, including Colorado, are in the process of examining the interest, ability and readiness to apply to be part of the initiative. An awareness-building day was held on August 21st with about seventy participants from eight to ten jurisdictions who were introduced to the EBDM Initiative. Currently, local jurisdictions are assembling teams who will apply to participate in the process and the EBDM Planning Committee will meet in September to consider these applications. Additional state-level deadlines from the National Institute of Corrections (NIC) will occur in October and November. The Committee will determine if Colorado has the ability and necessary local commitments to apply.

COMPREHENSIVE SENTENCING TASK FORCE: UPDATE

Proposed Recommendation FY15-CS-1

Mr. Hilkey recognized Norm Mueller, Co-Chair of the Comprehensive Sentencing Task Force to provide a presentation on a preliminary recommendation from the Task Force. The recommendation addresses an option for sex offenders with medical disability or medical incapacitation to petition for early discharge from Lifetime Supervision Probation (*Note: The recommendation details and proposed statutory language are not included below, given the preliminary nature of the recommendation.*)

FY15-CS #01 Early Discharge from Lifetime Supervision Probation for Sex Offenders due to Disability or Incapacitation

Recommendation FY15-CS #1

Amend C.R.S. 18-1.3-1008 as follows to provide that offenders sentenced to the Lifetime Supervision Act, who suffer from a severe disability to the extent they are deemed incapacitated and do not present an unacceptable level of risk to public safety, may petition the court for early discharge from probation supervision.

Discussion

Mr. Mueller described that sex offenders convicted of a Class 3 sex offense who are sentenced to probation receive a minimum probation sentence of twenty years. Sex offenders convicted of a Class 4 sex offense and who are sentenced to probation must serve a ten-year probation sentence. It is possible for those sentenced to probation for other crimes to receive an early discharge from probation for successful performance and compliance and the discharge is most frequently initiated by the Probation Division. Currently, sex offenders sentenced under the Lifetime Supervision Act are prohibited from early probation discharge. This particular proposal regarding sex offenders is only applicable to "special needs" offenders.

This recommendation was developed in the Sex Offense Working Group (of the Comprehensive Sentencing Task Force) at the request of the Probation Division and acknowledges the reality of the aging probation subpopulation (of sex offenders serving long probation sentences). The Task Force members unanimously supported this recommendation for this very narrow circumstance.

Subsection 2 includes the definition of a “special needs sex offender.” Specifically, these are offenders who, due to medical incapacity of a permanent nature, are unable to participate in treatment or, in any way, benefit from probation supervision. The statute would create a process for the early release from lifetime supervision. The petition or motion to the Court can be filed by the offender, his/her representative, the Probation Division, or the Prosecutor.

The petition must contain all medical records establishing the medical condition of the offender and the permanent nature of the medical condition. Probation must also provide documentation confirming that the offender can no longer participate in or benefit from probation supervision. There must also be documentation supplied by a treatment provider concurring with this position. If a prosecutor has not initiated the petition, the prosecution has 30 days to file a response to the petition. There must also be a finding that the individual does not present an unacceptable risk to reoffend.

Subsequently, a hearing is set to address the petition. The court can conduct a hearing on the nature and severity of the incapacitation and whether it is terminal and /or irreversible, after which the court may grant or deny the petition. A denied petition may be re-submitted after one year. This process would be considered a critical stage in the justice process that would require victim notification.

There was no discussion or questions. The recommendation will be presented for final consideration and vote at the October 2014 Commission meeting.

Comprehensive Sentencing Task Force Conclusion

Jeanne Smith, Co-Chair Task Force reminded Commission members that the work on the above recommendation represented the final task assignment to the Task Force. The Task Force will have concluded its work at the time of the vote in October. There are no further meetings of the Task Force scheduled. The conclusion of the Task Force is not an indication that the Commission assumes that there are no further needs in this area. There are no specific priorities at the current time. The Commission may return to this topic in the future to address emergent needs in the area of sentencing. Ms. Smith extended her thanks to all those who have devoted considerable effort to the Task Force and its Working Groups over the last four years.

Mr. Hilkey called for a meeting break at this point.

Following the meeting break, Mr. Hilkey offered introductory comments regarding the next item on the agenda...the update from the Juvenile Justice Task Force. At the March Commission retreat, there were four short-term tasks assigned to the Task Force for completion by the end of the summer. Following that period, the Commission was to determine whether the Task Force would be tasked with a proposed re-ordering of the Children's Code. Mr. Hilkey proposed that, rather than beginning the huge task of re-ordering the Children's Code, that the Commission could re-assess whether there might be items of work with a smaller scope that the Commission could address. During the next several months, there will be time to make this determination before the next priority-setting session of the Commission, which will occur sometime in the first quarter of 2015. Mr. Hilkey returned to the agenda and introduced the co-chairs of the Juvenile Justice Task Force to provide a status update of the short-term work assignments.

JUVENILE JUSTICE TASK FORCE: UPDATE

Kelly Friesen, Co-Chair, provided an update on the pending work assignments. In March, the Task Force identified four areas of ongoing work with the goal to complete these items by the end of the summer. Two recommendations were previously presented to the Commission and were approved (FY15-JJ#01 Petty Ticket Option and FY15-JJ#03 Professional Practices) and two items were still pending: the Age of Detention and Pre-Filing Diversion.

A preliminary recommendation on the Age of Detention (FY15-JJ#02) was presented at the June 2014 Commission meeting, but the Task Force has not offered the recommendation for final consideration and vote. The Task Force has extended the delay of the final consideration of the recommendation to seek consensus from county stakeholders. Ms. Friesen reported that she has met with various county stakeholders including representatives of Colorado Counties, Inc. (CCI), county attorneys, and county commissioners. Ms. Friesen stated that it will be difficult to achieve this by the Commission's extended deadline of November to complete the work. There will not be another opportunity to meet with CCI until their meeting in December or, following that, at their spring meeting.

The Pre-Filing Diversion topic is quite complex and, although completion of this work does not seem likely, the Task Force will attempt to produce a recommendation for presentation in October and a vote in November.

Discussion

- It was felt that additional groundwork should be established with counties. Increasing the population of children for who detention would be prohibited would have county impacts in the area of social services that must be fully explored.
- The topic of Age of Detention has been examined for the last two years and a recommendation was approved by the Task Force in May and was presented to the Commission in June. Why were counties just now being brought into the conversation within the last two weeks?
 - Because the preliminary work was completed by a Working Group, it was unknown to Task Force members that county involvement had not occurred.
 - FOLLOW-UP: Why didn't Task Force members determine whether coalition-building had occurred, especially, given that there appears to have been ample opportunity for this to be accomplished?

- Initially, the work focused on the topic of the “age of delinquency.” The topic slowly evolved into the “age of detention” and that latter focus has only been since November of 2013. If CCJJ wants the recommendation to be vetted by Colorado Counties, Inc. prior to a vote, that cannot be done until December.
- Whether or not the coalition-building with stakeholders is present, the recommendation itself is unlikely to change. If the Commission would like to schedule a vote on the recommendation as is, the Task Force would consider the recommendation ready for that final consideration.
 - The Commission will leave that determination to the Task Force. The Task Force may decide to continue meeting with individual county representatives over the next month if it wishes or it may present the recommendation to the next meeting for a vote, regardless of the status of county opinion.
- No one is concerned about the recommendation, philosophically. The concern is the extent of financial impact on social service agencies (for example, foster care and child welfare services). If the financial questions can be addressed, the decision to finalize consideration of the recommendation could be made.

Mr. Hilkey summarized the update by stating that the Task Force will be allowed the months of October and November to conclude any pending work on the Age of Detention and Pre-Filing Diversion. If there are any completed recommendations, the final vote of the Commission would occur no later than November 2014.

CCJJ INITIATIVES

Mr. Hilkey transitioned from the current work of the Juvenile Task Force to the proposal for continued work of the Task Force on the Re-ordering of the Children’s Code. He offered to meet with individual members or small groups of members of the Task Force. Mr. Hilkey indicated that there should be ample time for feedback discussions to be held with members of the Task Force prior to the next strategic planning meeting of the Commission. These discussions should yield focused issues or concerns that could be shared with the Commission in the regular cycle of priority setting by the Commission during the first quarter of 2015.

Proposed Juvenile Work

Jeff McDonald, Co-Chair of the Juvenile Justice Task Force, offered a presentation on the background and possible future of the Juvenile Justice Task Force. The Commission’s enabling legislation specifically mandates that the Commission address juvenile justice issues [§16-11.3-101(h) and 16-11.3-103(e)]. In August 2010, the Commission seated the Juvenile Justice Task Force and identified several issues that the Task Force could examine. These issues included: working on the Children’s Code, information sharing, statewide inconsistencies, disproportionate minority contact, truancy, training and education, prevention and intervention, and clarify and streamline services and funding.

In March 2011, the Task Force held a two-day retreat to identify the problem areas in juvenile justice by exploring the precursors to penetration into the system. The Task Force developed a mission, vision and guiding principles to help focus the work of the Task Force and all these materials were presented to the Commission in March 2012. The Task Force seated three

Working Groups to focus on problem areas in education, judicial and assessments. These Working Groups continued their work through 2013.

Mr. McDonald described the products generated by the Juvenile Justice Task Force:

- the provision of educational materials to detention facilities (FY12-JJ#01)
- amending the Department of Education rules regarding GED age restrictions (FY13-JJ#01)
- revised enforcement of the Compulsory School attendance statute to address issues including the definition of absence, policies and procedures regarding attendance, identification of at-risk students, truancy charges, and parental roles (FY13-JJ#2)
- revised the Sex Offender Deregistration Statute to allow a person who *committed* an offense while under 18 years of age to deregister as an adult after successful completion of the terms of the sentence (FY13-JJ#03)
- revised the Escape statute to provide that an adjudicated juvenile who turns 18 while in custody, not in a state-operated facility, commits a misdemeanor 3 rather than a felony if convicted (FY13-JJ#4)
- revised the statewide Juvenile Screening and Assessment Guide
- created a recommendation for a petty ticket option for law enforcement as an alternative to formal proceedings (FY15-JJ#01)
- created a recommendation to initiate the first steps to provide for statewide standards of professionalism throughout the juvenile justice system (FY15-JJ#03)

Throughout the work delineated above, there were other topics that were discussed extensively by Working Groups and the Task Force that may not have yielded recommendations, but that guided subsequent work, for example the derivation of the Age of Detention topic from the extensive discussions of the Age of Delinquency. Any topic addressed within the juvenile justice system is highly complex due to the connections with the several other systems that serve juveniles and their families.

The Task Force has considered addressing a variety of other topics, such as, Article 2 of the Children's Code - with a goal of deleting outdated language, resolving inconsistencies, better reflecting best practices, and clarifying services and funding streams. Although included philosophically in all its work, there may be specific topics within disproportionate minority contact that can be addressed. Finally, there are opportunities to improve information sharing while enhancing security across the juvenile systems. More recently, the Task Force created a process to develop actions plans outlining how topics can be addressed (examples of which were provided in member handout packets).

Current and Future Projects

Mr. Hilkey directed members' attention to two handouts with details of Commission priorities established at the March Commission retreat.

If the Juvenile Justice Task Force does not continue, could juvenile issues be addressed within the upcoming Re-Entry Task Force? The items included at the end of the previous presentation appear appropriate to include in the spring priority-setting process. Though, it would be necessary to further narrow the focus of the potential items of work. Mr. Hilkey referred again to his plan to engage the Juvenile Justice Task Force members in conversations about potential

topics of study. The topics should also be guided by research on evidence-based practices. The proposed Children's Code work may not be adequately defined at this point and may represent too large a scope of work at this time. It may be advantageous to consider creating smaller groups to work on more narrowly-focused topics and recommendations.

Summing up, the Juvenile Justice Task Force will present any recommendations it can develop in October with a vote scheduled in November. The Age of Detention recommendation (FY15-#02) appears ready for final consideration by the Commission in October, not November. The pending issues seem related to stakeholder buy-in and funding, which is more a legislative concern. It is unnecessary to reach consensus with stakeholders and on funding issues for the Commission to vote on a juvenile justice policy recommendation. The Task Force should not continue to delay this recommendation from a Commission vote for these types of reasons.

The Juvenile Task Force, therefore, will not continue to meet after October. Instead, during the fall and early winter, Mr. Hilkey will meet with Task Force members to explore whether there are focused and achievable items of juvenile work that can be considered during the Commission's strategic planning retreat during the first quarter of 2015. When the charges to a Task Force are overly broad it is more difficult to determine which subject matter experts should be seated to address the issues and stakeholders are uncertain which topics will be addressed by the Task Force. If the Juvenile Justice Task Force is reconstituted at a later time, it should contain representatives from counties.

Membership Allocation

During the March retreat, six priority areas were identified. Two areas (Re-Entry and Data) were identified for possible work in the fall. Mr. Wilson stated that if there are Commission members who are not participating on a task force, to please identify one on which to serve. The Data Task Force is particularly lacking in volunteers. Mr. Garcia would like to participate in any group discussing data. Mr. McDonald volunteered to serve on the data group. Kelly Friesen would like to be included on re-entry issues.

Ms. Smith reminded Commission members that the initial work on data and re-entry is exploratory. The current commitment requested is only to participate as a member of an exploratory group on these topics through the beginning of the year and not for participation on a task force on these topics.

According to the By-laws, Commission members cannot miss more than three meetings in a calendar year. Mr. Wilson will be contacting commissioners who have missed more than three meetings.

ADJOURNMENT

No further business was raised by Commission members and Mr. Hilkey adjourned the meeting at 3:04 p.m. The next Commission meeting will occur Friday, October 10, 2014 from 12:30 – 4:30pm at the Jefferson County District Attorney Building.