

**Colorado Commission on Criminal and Juvenile Justice**

**Pretrial Release Task Force**

**Minutes**

September 5, 2017 1:30PM-3:30PM  
710 Kipling, 3<sup>rd</sup> floor conference room

**ATTENDEES:**

**TASK FORCE CHAIR**

Stan Hilkey, Dept. of Public Safety

**TASK FORCE MEMBERS**

Jennifer Bradford, Metro State University of Denver  
Maureen Cain, Criminal Defense Attorney  
Steve Chin, Mesa County Pretrial Services  
Charles Garcia, CCJJ At-large representative  
Bill Kilpatrick, Golden Police Department  
Greg Mauro, Denver Community Corrections  
Patrick Murphy, Judge, 17<sup>th</sup> Judicial District  
Monica Rotner, Boulder County Community Justice Services  
Kirk Taylor, Pueblo County Sheriff  
Lucienne Ohanian, Public Defender's Office  
Bo Zeerip, District Attorney 21<sup>st</sup> Judicial District  
Valarie Finks, Victim Services, 18<sup>th</sup> Judicial District  
Clifford Riedel, Larimer County District Attorney

**STAFF**

Richard Stroker/CCJJ consultant  
Kim English/Division of Criminal Justice  
Peg Flick/Division of Criminal Justice  
Germaine Miera/Division of Criminal Justice

**ABSENT**

Mike Garcia, Division of Probation Services  
Joe Salazar, Representative, House District 31  
Lang Sias, Representative, House District 27

**ADDITIONAL ATTENDEES**

Sallie Clark, El Paso County  
Jack Reed, Division of Criminal Justice  
Ally Daley, Colorado Counties, Inc.  
Denise Maes, ACLU  
Kathy Livornese, Judicial Branch  
Rebecca Wallace, ACLU

<p><b>Issue/Topic:</b> Welcome and Introductions</p>	<p><b>Discussion:</b></p> <p>Task Force Chair Stan Hilkey welcomed the group and reviewed the agenda. He asked attendees if they had a chance to look at the minutes and requested any additions, corrections or discussion. Kirk Taylor made a motion to approve the minutes and Monica Rotner seconded the motion. The minutes were approved unanimously.</p> <p>Judge Patrick Murphy introduced Judge Carlos Samour and Mindy Masias from the Colorado Judicial Branch. He explained that they are in attendance to share the work of the Colorado Bail and Pretrial Committee which is working on similar issues as this Task Force. He added that there may be areas where a coordinated effort would benefit both groups.</p>
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<p><b>Issue/Topic:</b> August Meeting Review</p> <p><b>Action:</b></p>	<p><b>Discussion:</b></p> <p>CCJJ Consultant Richard Stroker reviewed the outcomes from the August meeting. He reminded Task Force members that during that meeting they took the original 8 issue areas identified by the group and combined them into 4 broad areas of study as follows:</p> <ul style="list-style-type: none"> <li>• Implementation of 2013 Statute</li> <li>• Assessment tools / CPAT/ Decision making / Bond schedules / Conditions / Behavioral Health</li> <li>• Preventive Detention</li> <li>• Pretrial services/ Supervision / Violations / Resources / Behavioral Health</li> </ul> <p>Richard explained that the group will revisit these identified opportunity areas later in the meeting and will create an action plan for moving forward with the work.</p>
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<p><b>Issue/Topic:</b> Colorado Bail and Pretrial Committee / Report Out</p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• Judge Murphy to report back in October on the outcomes from the Judicial conference</li> </ul>	<p><b>Discussion:</b></p> <p>Judge Carlos Samour and Mindy Masias from the Judicial Branch addressed the Task Force members and explained the background and details of Judicial’s Colorado Bail and Pretrial Committee.</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• The Committee was created in the Judicial Branch shortly after a handful of judicial representatives from Colorado attended an informative conference in New Mexico which featured an engaging presentation by Chief Justice Charles Daniels.</li> <li>• Chief Justice Daniels spearheaded an effort that culminated in a statutory effort in New Mexico that significantly reduces money bond.</li> <li>• Many other issues were addressed at the conference including national trends in bail reform, which prompted Judge Samour and Ms. Masias to think more about a better systems of bail.</li> <li>• A committee was created which included six chief judges, Mike Garcia,</li> </ul>
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<p><b>Issue/Topic:</b></p> <p>Colorado Bail and Pretrial Committee / Report Out (continued)</p>	<p>Mindy and Judge Samour. The group also includes Judicial’s legislative liaison and Brad Canby from Arapahoe County Pretrial Release Services.</p> <ul style="list-style-type: none"> <li>• The group is currently prioritizing goals and developing a declaration page and mission statement.</li> <li>• Some of the goals include an increased effort to educate the bench on implementation of the 2013 bond legislation amendments and other issues concerning cash bail. The group will also be looking at the constitution and whether it’s sufficient. There are also other issues with resources and pretrial release services availability throughout Colorado. Currently only 17 judicial districts out of 64 judicial districts have pretrial services.</li> <li>• One of the major barriers is that people get used to doing things in one way and it’s hard for them to believe anything is wrong.</li> <li>• The committee also hopes to include additional stakeholders.</li> <li>• Mindy expressed that the Judicial Committee is excited to have a partner in the Commission and particularly in the Pretrial Release Task Force. She explained there are 370 judges and judicial officers who need to be educated about current trends and evidence-based practices.</li> <li>• Stan agreed that the more the two groups can be in alignment the better off both groups will be.</li> <li>• Judge Murphy explained that Chief Daniels will be presenting at Colorado’s judicial conference next week and that the biggest challenge is educating judges and new people on the bench. He also offered to report back to this group next month on how Chief Daniels was received.</li> <li>• There is a hope that Judge Daniels will be the starting point and will help convince judicial representatives in Colorado that there is a need for change.</li> <li>• Currently in Colorado money is driving release decisions - which adversely impact the poor.</li> <li>• Maureen Cain pointed out that the Public Defender’s office has offered for years to attend meetings of the Chief Judges and the Judicial Conference to educate judges on the 2013 statutory changes.</li> <li>• Mindy said she thinks they finally feel they have the right people at the table and that since education is under her (Mindy’s) purview she can help with Judicial’s education efforts moving forward. Judge Samour added that the Judicial Branch is on board and hopes that educational efforts will be different this time.</li> <li>• Greg Mauro asked about communication efforts between the two groups going forward so they don’t trip over each other. Stan explained that the Judicial Committee met with him and Doug when the Task Force first got underway. Since Mike Garcia and Judge Murphy are members of both groups they can ensure continuity and can offer updates to both groups on the work of the other group. The plan is for this to be a collaborative effort and not a competition.</li> <li>• Stan followed-up on Judge Samour’s comment about adding other stakeholders to Judicial’s group. The judge replied that they want to have a policy statement in place before inviting others to participate. Mindy added that they want to ensure acknowledgement and approval from the Supreme Court.</li> <li>• Lucy asked about what sources of information the Judicial group will use to</li> </ul>
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<p><b>Issue/Topic:</b></p> <p>Colorado Bail and Pretrial Committee / Report Out (continued)</p>	<p>make decisions. Mindy replied they will gather research and data as it is available and that they are not set on outcomes until they get further into and details.</p> <ul style="list-style-type: none"> <li>• Judge Murphy added that there are many well financed opponents to this movement. Judges always have a fear that they’re going to release someone who may threaten public safety. There’s a need for experienced judges to help influence incoming judges and get them on board. Pretrial reform is headed in the right direction but it’s a heavy lift. Human nature creates reluctance and makes a judge hesitant to release someone.</li> <li>• Judicial is also concerned about the proper use of pretrial services and not over-conditioning people. For example things like drug testing are expensive and can interfere with someone’s ability to keep a job when they consistently have to drop UA’s. GPS is also a problem when people are charged upwards of \$20 a day simply because it helps the judge feel better.</li> <li>• There needs to be awareness about the cascading issues and collateral consequences of people losing their job, then losing their housing, which affects their family and lives. People get out and they’re much worse off because they simply didn’t have any money. They will fail on probation because they lost their job and lost their home.</li> <li>• Stan pointed out that pretrial reform IS taking place around the country despite efforts of the opposition. He explained the state needs to get to the point where it deploys the best research, science and risk assessment tools. There’s a need to continue to make the best decisions at the right time, with right tools and right science.</li> <li>• States that have gone with reform are doing better than they had before.</li> <li>• Strategic implementation and navigating politics will be the hard part.</li> <li>• Bail insurance companies are the ones who lobby for the bondsmen. Many states just use cash and not bondsmen.</li> <li>• Cliff asked if any states have gone away from cash bond without a preventive detention model. He added that there needs to be a way to detain the high risk people.</li> <li>• Monica added that even places that have preventive detention would say risk assessment is just as critical. Part of the battle is that there’s not a solid belief in the CPAT.</li> <li>• Stan noted that it would be easy to get stuck on that one issue. There is some work that can happen that would be meaningful for our entire state. There are opportunities to make progress.</li> <li>• Mindy emphasized that it’s important not to underestimate how important pretrial services is. But the question remains about who runs pretrial and who finances pretrial services in 64 counties.</li> <li>• When New Jersey reformed pretrial release they said the most critical piece was training judges and that they trained for two years.</li> <li>• Richard summarized that both groups would keep each other updated and that in many states there’s currently a big cost associated with how business is currently done – so it’s important to focus on the fact that reform is about reinvestment. It’s not necessarily that much more expensive since there’s already cost.</li> </ul>
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Issue/Topic:	Discussion:
<p data-bbox="175 247 456 310">2013 Bond Legislation / Before and After</p> <p data-bbox="272 352 358 380"><b>Action:</b></p> <ul data-bbox="142 394 529 527" style="list-style-type: none"> <li>• Kim and Peg to return to the October Task Force meeting with additional bond analysis</li> </ul>	<p data-bbox="561 247 1511 310">Kim English and Peg Flick presented findings from their analysis of House Bill 13-1236 and directed Task Force members to a handout in their packets.</p> <p data-bbox="561 352 708 380"><i>DISCUSSION</i></p> <ul data-bbox="610 394 1520 1066" style="list-style-type: none"> <li>• Kim explained that this analysis looks at the impact of the 2013 legislation which came out of recommendations from the Commission. The analysis looks at cash/surety bond and personal recognizance bonds before and after 2013.</li> <li>• She added that the analysis is extremely complicated because people have multiple bond records.</li> <li>• The second page of the handout shows the top ten types of offenses driving the increase in money bond. Drug activity is the most significant.</li> <li>• The first table shows that of all the bonds 68% were from County Court and 32% were from District Court.</li> <li>• Peg began a review of overall findings and breakdowns by specific judicial districts.</li> <li>• She explained that the charts in the handout show cases in which bond was posted, by the posted type, in District and County court. The Judicial Districts selected include the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 8<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup>.</li> <li>• If there were one or more bond records Peg pulled the first bond record. The data includes felony, misdemeanor and traffic cases from ICON. The data includes information from Denver District Court but not Denver County.</li> </ul> <p data-bbox="561 1108 1013 1136"><i>POINTS OF INTEREST AND QUESTIONS</i></p> <ul data-bbox="610 1150 1520 1892" style="list-style-type: none"> <li>• In the 1<sup>st</sup> JD there wasn't much of an increase between pre and post H.B. 13-1236. However in the 2<sup>nd</sup> JD there was a big increase.</li> <li>• Overall the increase is small in most jurisdictions but there are some exceptions.</li> <li>• Maureen pointed out that Mesa is one of the only jurisdictions with a really effective summons system.</li> <li>• A question was asked if the data correlate with the utilization of the CPAT? The answer was no, not necessarily.</li> <li>• The numbers in the chart vary considerably by jurisdiction and change annually too.</li> <li>• Maureen pointed out that in La Junta there's one judge that performs the CPAT on the bench. There are no pretrial services there but the judge is trying to make decision based on information.</li> <li>• Greg Mauro pointed out that jurisdictions that are showing movement are where they are constantly talking about bond reform. These ongoing conversations drive behavior change.</li> <li>• Bill Kilpatrick pointed out that in the 1<sup>st</sup> there's been tremendous pushback and it is reflected in the numbers.</li> <li>• Stan noted that there is some comfort level in setting a cash bond but it's a phobia that needs to be addressed. There is a need for a gradual effort at education.</li> </ul>

<p><b>Issue/Topic:</b></p> <p>2013 Bond Legislation / Before and After (continued)</p>	<ul style="list-style-type: none"> <li>• Mindy agreed on the need to educate judges and to give them the tools to do the right thing. Oftentimes if a judge is worried about public safety they think that cash puts some skin in the game for someone to return.</li> <li>• Peg explained that as for the graphs by individual jurisdiction – the orange bars show cash and surety bonds, the green shows PR bonds, and the black shows FTA rates. Additionally, if there were any drug charges anywhere in the case, the case was labeled as ‘drugs’. The data shows people with drug charges have a higher FTA rate than those without.</li> <li>• Greg noted that FTA’s on drug offenses are common. Kim added that that’s not to say PR bonds shouldn’t be used for drug cases, but that supervision of people with drug charges needs to be done differently.</li> <li>• Peg pointed out that Mesa numbers are drastically notable. Bo explained that he thinks the reform in Mesa had less to do with statutory changes and more to do with initiatives like the EBDM project, and that Mesa was already on the path before 2013.</li> <li>• He pointed out that, once again, the numbers show that posting money doesn’t help get a better court appearance rate.</li> <li>• Judges in places like Adams County would argue that the nature of crimes in Adams County is more serious than those in Mesa.</li> <li>• Stan said that he would like to see numbers on new crimes committed. Kim noted that they have the data but haven’t put the numbers together yet.</li> <li>• Detention needs to be accompanied by judicial due process. If there is a transparent system where cash is not part of a release decision, then there needs to be a way to detain.</li> <li>• Kim offered to break-out the numbers county-by-county for the next meeting and to present data on the public safety rate.</li> <li>• Peg added that she can also show the counties that have pre-trial services.</li> <li>• Greg asked if it is possible to look at the damage caused by surety bonds and people who have to stay in longer for failure to pay. Bo said he would like to see the numbers on people in the system that were never able to post bond.</li> <li>• Monica added that she would be interested in seeing data on people detained by the number of days. The cost of one and two days really adds up.</li> </ul>
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<p><b>Issue/Topic:</b></p> <p>Identified Opportunity Areas: Action plan for moving forward</p> <p><b>Action:</b></p>	<p><b>Discussion:</b></p> <p>CCJJ Consultant Richard Stroker talked to Task Force members about their identified opportunity areas and the best way to address the work. He offered that the group could prioritize the four identified issue areas and create a batting order of topics. Alternatively, Task Force members could break into smaller Working Groups with each group working on a particular issue.</p> <p>He explained that the goal is to be productive without getting bogged down. He added that if the Task Force agrees to the smaller Working Group approach each</p>
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<p><b>Issue/Topic:</b></p> <p>Identified Opportunity Areas: Action plan for moving forward (continued)</p>	<p>group would need to understand the current landscape of the identified topic area by addressing the following:</p> <ol style="list-style-type: none"> <li>1. Current efforts / services / activities</li> <li>2. Statutory considerations</li> <li>3. Relevant data</li> <li>4. Key issues within topics</li> </ol> <p>He added that there would also be statutory conditions that would need to be considered.</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> <li>• Maureen noted that with a smaller group size, people are more honest and willing to work, but that how the groups are populated is also important.</li> <li>• A question was raised about possibly tackling two topics at a time.</li> <li>• No matter how the group proceeds it is important for <u>this</u> group to still address the 2013 Implementation along with the Judicial Committee that is addressing the same issue.</li> <li>• Bo and Monica added that they are both in favor of smaller groups.</li> <li>• Greg agreed the only way to realistically get the work done is to break into smaller groups.</li> <li>• Stan polled the Task Force members and the group agreed to tackle the work via smaller Working Groups.</li> <li>• Richard observed that with the number of Task Force members each Working Group will have approximately four participants. He asked everyone to submit their preference for Working Groups to Germaine and she would pull the groups together.</li> <li>• He added that time would be built into the agenda each month for all four groups to report back on their progress.</li> </ul>
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<p><b>Issue/Topic:</b></p> <p>Next Steps and Adjourn</p> <p><b>Action:</b></p>	<p><b>Discussion:</b></p> <p>Stan closed out the meeting by reminding the Task Force members to submit their preference for Working Group participation. He explained that the next meeting would be held on October 10<sup>th</sup>.</p>
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**Next Meeting**

October 10, 2017      1:30pm – 4:00pm      710 Kipling, 3<sup>rd</sup> floor training room