

Pretrial Release Task Force Minutes

October 10, 2017 1:30PM-3:30PM
710 Kipling, 3rd floor conference room

ATTENDEES:

TASK FORCE CHAIR

Stan Hilkey, Dept. of Public Safety

TASK FORCE MEMBERS

Jennifer Bradford, Metro State University of Denver (on the phone)

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, 17th Judicial District

Monica Rotner, Boulder County Community Justice Services

Kirk Taylor, Pueblo County Sheriff

Lucienne Ohanian, Public Defender's Office

Bo Zeerip, District Attorney 21st Judicial District

Valarie Finks, Victim Services, 18th Judicial District

Mike Garcia, Division of Probation Services

STAFF

Richard Stroker/CCJJ consultant

Kim English/Division of Criminal Justice

Peg Flick/Division of Criminal Justice

Laurence Lucero/Division of Criminal Justice

ABSENT

Joe Salazar, Representative, House District 31

Lang Sias, Representative, House District 27

Clifford Riedel, Larimer County District Attorney

ADDITIONAL ATTENDEES

Sallie Clark, El Paso County

Joe Thome, Division of Criminal Justice

Becca Curry, ACLU

Kathy Livornese, Judicial Branch (on the phone)

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion: 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 Greg Mauro seconded the motion. The minutes were approved unanimously.</p>
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<p>Issue/Topic: Report Outs</p> <p>Action: Greg Mauro to present the Denver data breakout</p> <p>Kim English to pull out VPO and VBBC from the bond analysis data</p> <p>Look at the CDAC report showing increase of Felony filings.</p> <p>New data request to be gathered by Kim English</p>	<p>Discussion:</p> <p>Judicial Conference Outcomes - Judge Murphy/Mike Garcia</p> <p>Judge Murphy reported that Chief Justice Daniels presented at the Colorado’s Judicial conference in September on the bail reform in New Mexico. Chief Justice Daniels described the process that resulted in the passage of the statutory reform and explained that one very important component was the education and engagement of the stakeholders across the state. Judge Murphy concluded that he believed that Justice Daniels’ personal commitment and leadership from the Supreme Court in New Mexico were instrumental.</p> <p>Mike Garcia also attended the Judicial Conference and highlighted a presentation on secondary trauma experienced by the staff working with defendants. Mike explained that his office is working on locating resources in the Judicial Branch to help staff dealing with those issues.</p> <p>Judicial’s Colorado Bail and Pretrial Committee - Stan Hilkey</p> <p>The Judicial’s Colorado Bail and Pretrial Committee was recently created in the Judicial Branch. Some of the goals include an increased effort to educate the bench on the implementation of the 2013 bond legislation and other issues concerning cash bail.</p> <p>Stan Hilkey reported that he recently had a conference call with Mindy Masias to discuss draft legislation from the County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee. Ms. Masias expressed desire for more communication between the Committee and the Pretrial Task Force to ensure coordination of efforts.</p> <p>2013 Bond Legislation follow-up - Peg Flick</p> <p>Peg Flick presented Part II of a bond analysis that looks at the impact of the House Bill 13-1236 legislation. A handout was included in the meeting materials that can be found on the Pretrial Release Task Force webpage under “Materials” at, colorado.gov/ccjj/.</p>
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<p>Issue/Topic:</p> <p>Report Outs</p> <p>Action:</p>	<p>2013 Bond Legislation follow-up (continued)</p> <p>Below are the highlights of the presentation:</p> <ul style="list-style-type: none"> ○ This analysis looks at public safety rate (or new filings) for defendants in which bond was posted, before and after the 2013 reform, by posted type. New filings include misdemeanor or higher charges. ○ Denver County court data is not available so the analysis may possibly undercount the public safety rate for counties in the Denver metro area. ○ <i>Table 1: New filings for bond posted in Felony cases, pre and post HB13-1236.</i> ○ <i>Table 2: New filing offense type for bond posted in Felony cases, pre and post HB13-1236.</i> When there are multiple charges per case, only the most serious offense was considered. "Misdemeanor Assault" includes Violation of a Protection order. "Other Custody Violations" includes Violation of Bond Conditions. Peg commented that there is little difference between the two periods in terms of the types of crimes. ○ <i>Table 3: New filing for bond posted in Misdemeanor/Traffic cases, pre and post HB13-1236</i> ○ <i>Table 4: New filing offense type for bond posted in Misdemeanor/Traffic cases, pre and post HB13-1236</i> ○ <i>Graphs: New Filing for Selected Judicial Districts: 1st, 2nd, 4th, 8th, 17th, 18th, 20th and 21st.</i> <p>DISCUSSION:</p> <p>Greg Mauro suggested that Denver data would be included if the case is bounced to District Court and argued that the absence of Denver County filings should not affect the overall result of public safety rate in the Denver counties.</p> <p>The group commented that there is no substantial change in terms of public safety rates between pre and post H.B. 13-1236, and the data show that the number of people who are getting PR bonds has increased. Even as more people are let out on pretrial supervision, the recidivism rate has not gone up substantially.</p> <p>The data also suggests that there is no correlation between money/surety bonds versus PR bonds and outcome.</p> <p>The CPAT study was referenced as showing the same outcome.</p> <p>The use of PR bond varies from district to district as the practice remains judicial discretion.</p>
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<p>Issue/Topic:</p> <p>Report Outs</p> <p>Action:</p>	<p>2013 Bond Legislation follow-up (continued)</p> <p>It was suggested that most of the people who are getting PR bonds have likely been assessed at a lower CPAT score and are at a lower risk to recidivate.</p> <p>Denver had showed consistent data on level of risk over the past four years. About 11% of the population is at low risk and 23% at highest risk.</p> <p>Greg Mauro offered to present the Denver breakout at a future meeting.</p> <p>Greg suggested that the client type significantly influences the outcomes of supervision and that behavior health and addiction issues seem to drive to failure.</p> <p>A large number of the new filings are due to protection order violations which are subject to mandatory arrest.</p> <p>Additionally, there is a significant amount of prosecutorial discretion with regards to the violation of bail bond conditions (VBBC). For example, a jurisdiction may have a lot of releases but also a significant number of revocations that are concurrently filed along with VBBC.</p> <p>Kim English highlighted that the second and third most frequent offenses are “Misd. Assaults” (which include Violations of Protection Orders) and “Other Custody Violations” (include Violation of Bond Conditions).</p> <p>Kim proposed to pull out the Violations of Protection Order and Violations of Bail Bond Conditions from these crimes in future analyses.</p> <p>A Colorado District Attorney Council (CDAC) analysis was recently released, showing the number of felony filings by judicial district. Some districts show a drastic increase while other districts do not. The data were compiled by CDAC from the Judicial Department’s annual statistical report.</p> <p>Greg Mauro asked if it was possible to look at the outcomes of the people who received secure bonds versus unsecure bonds and <i>within the four levels of the CPAT</i>. The group discussed that some of the following counties should be contacted as they are using the CPAT: Boulder, Denver, La Plata, Pueblo and Adams counties.</p> <p>Kim English agreed to explore this issue and will report back to the group.</p> <p><i>Is there data on how many cash/surety bonds are being posted and how many people are being held on cash/surety?</i></p> <p>Peg Flick is currently working on this data and will share with the group once completed.</p>
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<p>Issue/Topic:</p> <p>Report Outs</p> <p>Action:</p>	<p>Richard Stroker summarized the discussions as follows:</p> <ul style="list-style-type: none"> - The number of PR releases went up after the 2013 bail reform - The number of PR releases varies considerably by judicial district - There is little change in type of crime/charge filed before/after the reforms - PR releases do at least as well as cash/bond releases on public safety outcomes - Traffic Misdemeanor and Misdemeanor Assault are leading offenses in the public safety analysis <p>PR Bond Data - Monica Rotner, Boulder County Justice Services</p> <p>Monica Rotner presented on pretrial practices in the 20th Judicial District. The full PowerPoint presentation can be found on the Pretrial Release Task Force webpage under “Materials” at, colorado.gov/ccjj/.</p> <p>The highlights of the presentation are:</p> <ul style="list-style-type: none"> - The FY16 State Judicial Annual Report compared PR rates for supervised cases across judicial districts which showed that Boulder had the lower rate of PR bonds for supervised cases. This prompted a practice change in the 20th which was put in place in October 2016. - A study of 2700 cases (supervised and unsupervised) was conducted which underscored that CPAT is a good predictor of risk. The people who scored the lowest CPAT category have a high court appearance rate and a low recidivism rate while on supervision. - The PR recommendations/orders have increased substantially after the October 2016 practice change. PR recommendations for CPAT risk level 1 went from 60% to 86% and for CPAT risk level 2 from 20% to 76%. - Outcomes for supervised CPAT Risk levels 1 and 2: While PR rates significantly increased, the public safety rate and the court appearance rate remained the same. - Cost Savings of Pretrial Supervision: Estimated savings of \$5.7 million in 2015 by supervising pretrial defendants in the community rather than keeping them in jail. - Increase of Pretrial Supervision Intakes from 2012 to 2016. - Boulder Community Justice Services developed a supervision matrix similar to the Denver and Mesa counties models. The matrix intends to align with national research and best practice and to focus supervision resources to the highest risk and need. Charge types and enhancers are included in the matrix. Supervision levels were separated to “Enhanced”, “Regular” and “No Supervision”.
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<p>Issue/Topic:</p> <p>Report Outs</p> <p>Action:</p>	<p>PR Bond Data (continued)</p> <ul style="list-style-type: none"> - Additional new pretrial practices are in place such as the Domestic Violence Screening Instrument (DVSI), the Court Date Reminders for all defendants screened by Bond Commissioners, Regular and Enhanced Supervision Levels, 30 Day Reviews, and Specialized Caseloads. - Specialized Caseloads: The target populations are low risk (CPAT level 1 and level 2) with substance use disorder and “low functioning” pretrial defendants (e.g. mentally ill, TBI, cognitive impairment, etc.). The purpose of specialized caseload is 1) to engage and connect services to those with mental health and/or substance use disorder, 2) to provide pretreatment to substance abusing individuals on pretrial and connect to services in the community and 3) to supervise and connect mentally ill/low functioning pretrial defendants to appropriate services. <p>DISCUSSION:</p> <p><i>Are there conditions regarding substance abuse monitoring in pretrial supervision?</i></p> <p>Monica responded affirmatively and added that people were being revoked for none compliance with the conditions due to their inability to afford the substance abuse monitoring. Since then, Boulder Community Justice Services no longer revokes individuals in this circumstance, particularly the people who scored low-risk on CPAT.</p> <p>Counties with Pretrial Services - Maureen Cain</p> <p>Maureen Cain presented on pretrial services in Colorado and referred to the following handouts provided in the meeting materials:</p> <ul style="list-style-type: none"> o Summary of Pretrial Services in Colorado o Pretrial Services by Judicial District and County o Bond Schedules by Judicial District <p>(These resources can be found on the Pretrial Release Task Force webpage under “Materials” at colorado.gov/ccjj/.)</p> <p>Maureen explained that she has interviewed all the judicial districts in Colorado order to establish the profile, and used Peg’s bond analyses in the tables she presented. Maureen offered the group to consult her voluminous notebooks and use them as resource for the work of this task force. Part of Maureen’s research was to assess the pretrial practices in Colorado. Some points of interest:</p> <ul style="list-style-type: none"> - 27 counties have pretrial supervision or use some kind of risk assessment. - The counties of Bent, Crowley and Otero have expressed interest in the CPAT. - In some jurisdictions (for example in Prowers and Baca counties), the Probation Department ensures the pretrial supervision but do not use any assessment tools. - It is notable that the availability of pretrial programs does not always depend upon the size of the county.
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<p>Issue/Topic:</p> <p>Working Groups Report out</p> <p>Action:</p>	<p>Assessment tools/CPAT/Decision making/Bond schedules/Conditions/ Behavioral Health – Greg Mauro</p> <p>This working group met today for the first time. The members are Cliff Riedel, Valarie Finks and Greg Mauro. The group agreed to first start working on the assessment piece. Greg commented that Maureen’s research will be very valuable to assess the practices across Colorado. Additionally, the group intends to look at what other states are doing around the country.</p> <p>Doug Erler from Weld County Justice Services will be invited to participate. Doug is leading a group of counties to pursue validation of the CPAT by researchers at UNC.</p> <p>The working group would like to invite additional stakeholders to participate to the discussions and particularly representatives from rural jurisdictions or jurisdictions with no assessments or pretrial programs, representatives from pretrial programs and from a sheriff department of a smaller jurisdiction.</p> <p>Implementation of 2013 Statute (HB13-1236) – Maureen Cain</p> <p>The working group hasn’t met yet. Members include Charles Garcia, Mike Garcia and Maureen Cain, Ryan Brackley from the Denver District Attorney’s and Sheriff Spurlock from Douglas County.</p> <p>Preventive Detention – Bo Zeerip</p> <p>Bo Zeerip asked the Task Force members permission to change the name of the working group to “Pretrial Release/Detention.” The Task Force approved the change of name. The working group met last week. The members are Chief Kilpatrick, Lucy Ohanian, Bo Zeerip and Collette Tvedt (defense attorney). The working group would like to extend invitation to participate to representatives from Judicial and pretrial services.</p> <p>At the last meeting Tim Schnacke who recently wrote a paper called “<i>Model bail laws. Re-Drawing the line between Pretrial Release and Detention</i>” attended the meeting. The group discussed the different jurisdictions that have preventive detention and particularly the New Jersey model. New Jersey started their preventive detention process this year and have significantly reduced the number of money bonds. The working group also talked about the New Mexico and District of Columbia models and will gathered more information about these jurisdictions.</p>
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<p>Issue/Topic:</p> <p>Working Groups Report out</p> <p>Action:</p>	<p>Pretrial Services/Supervision/Violations/Resources/Behavioral Health – Steve Chin</p> <p>Monica Rotner and Steve Chin met today. They acknowledged that the data presented by Peg Flick and Maureen Cain today will be very helpful for the work of this group. Monica and Steve discussed that many jurisdictions are not familiar with pretrial practices and the 2013 legislation and decided to send a survey to all those jurisdictions that don't have pretrial supervision.</p> <p>The working group also expressed the need to expand its membership and asked suggestions from the task force members.</p> <p>The Colorado Association of Pretrial Services (CAPS) recently has developed pretrial standards for the state. These Standards include best practices, state laws references, and how pretrial program can request assistance and tools for improvement in those areas.</p> <p>The National Association of Pretrial Services Agencies (NAPSA) will also be releasing standards possibly in the Spring of 2018.</p> <p>It was suggested to reach out to Mind Springs Health/Mental Illness & Addiction Care which provides pretrial supervision in Pitkin County.</p>
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<p>Issue/Topic:</p> <p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Discussion:</p> <p>Richard Stroker reminded the group to first send to Germaine Miera any articles/information for dissemination to the Task Force.</p> <p>The targeted timeline for this Task Force is to present recommendations to CCJJ in the summer of next year and before the next legislative session.</p> <p>Richard encouraged the members to let the staff know if they wish to invite presenters at future meetings so they can be added to the agenda.</p> <p>Meeting adjourned at 3:45 pm</p>
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Next Meeting

November 7, 2017 1:30pm – 4:00pm 710 Kipling, 3rd floor training room