

Colorado Commission on Criminal and Juvenile Justice

Pretrial Release Task Force

Minutes

December 11, 2018, 1:00PM-4:30PM
710 Kipling, 3rd floor conference room

ATTENDEES:

TASK FORCE CHAIR

Stan Hilkey, Dept. of Public Safety

TASK FORCE MEMBERS

Bo Zeerip, District Attorney 21st Judicial District
Bill Kilpatrick, Golden Police Department
Judge Shawn Day, Aurora Municipal Court
Chris Ryan, State Court Administrator's Office for Mindy Masias
Maureen Cain, Criminal Defense Attorney
Valarie Finks, Victim Services, 18th Judicial District
Judge Chris Bachmeyer, 1st Judicial District
Steve Chin, Mesa County Pretrial Services
Tom Raynes, CDAC
Clifford Riedel, Larimer County District Attorney
Lucienne Ohanian, Public Defender's Office
Jennifer Bradford, Metro State University of Denver
Glenn Tapia, Judicial, Probation Services
Greg Mauro, Denver Community Corrections

STAFF

Richard Stroker/CCJJ consultant
Kim English/Division of Criminal Justice
Laurence Lucero/Division of Criminal Justice
Stephanie Waisanen/Division of Criminal Justice

ABSENT

Monica Rotner, Boulder County Community Justice Services
Rick Kornfeld, Defense Attorney
Kirk Taylor, Pueblo County Sheriff
Joe Salazar, Representative, House District 31
Lang Sias, Representative, House District 27

ADDITIONAL ATTENDEES

Tim Lane, CDAC

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion:</p> <p>CCJJ Consultant Richard Stroker opened the meeting and informed the group that Chair Hilkey was expected to join the meeting later. He asked task force members and other attendees to introduce themselves. He reviewed the agenda and asked for a motion to approve the minutes. Bo Zeerip asked staff whether a correction was made to the minutes with regards to the Preventive Release Working group meeting dates. The working group is set to meet on the Wednesdays following the Pretrial Task Force meetings. As the correction was made, Zeerip moved to approve the minutes and Tom Raynes seconded the motion. The minutes were approved unanimously.</p>
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<p>Issue/Topic: Recap of October meeting outcomes</p>	<p>Discussion:</p> <p>CCJJ Consultant Richard Stroker offered a recap of the November meeting. Richard explained that CCJJ unanimously approved the four recommendations (FY19 – PR#01, FY19-PR#02, FY19-PR#03 and FY19-PR#10) that came out of the working group led by Greg Mauro and Steve Chin. The recommendations called for the use of assessment tools, the use of pretrial services across the state, training and information collected using pretrial assessment tools, and the implementation of a court reminder system.</p> <p>A modification suggested by Tom Raynes was made in recommendation FY19-PR#03 which consists of using formula funding instead of grant funding for the expansion of pretrial services. The amendment was adopted by the Commission.</p> <p>The group discussed that the estimated implementation year for the expansion of pretrial services would be 2021 (recommendation FY19-PR#03). Bo Zeerip and Maureen Cain commented that this date may be too far out in time as preventive detention cannot be implemented unless pretrial services are fully in place. It was proposed that the Task Force first discuss and approve recommendation FY19-PR#04 and revisit an earlier timeframe for implementation.</p>
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<p>Issue/Topic: Report Out: Bail Blue Ribbon Commission</p>	<p>Discussion:</p> <p>Chris Ryan offered an update on the work of Judicial’s Bail Blue Ribbon Commission. He explained that both Bo Zeerip and Maureen Cain were on the agenda at the last Commission meeting and presented details of the recommendations coming forward from both of their working groups. Members of the Bail Blue Ribbon Commission expressed strong support for the pretrial services recommendations and agreed with the previous discussions that pretrial services should be established before appropriate consideration of a preventive detention system. The next steps for the Blue Ribbon Commission are to start compiling recommendations that will be presented to the Supreme Court.</p>
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<p>Issue/Topic: Working Groups - Report Out</p> <p>Recommendation Presentation Assessment Tools and Pretrial Services Working Group</p> <p>Action:</p>	<p style="text-align: center;">Discussion:</p> <p>Greg Mauro reminded the group that recommendation FY19-PR#04 was developed by the Assessment and Supervision Working Group and tabled by the Task Force in August 2018. This recommendation creates an opportunity by authorizing, in statute, that Probation may perform pretrial service functions in jurisdictions that do not have pretrial services or the capacity or resources to implement pretrial services.</p> <p>As this Task Force approved recent recommendations about the expansion of pretrial services, the working group discussed the issue of those jurisdictions that are lacking the resources to implement a full pretrial program and the group revisited the idea that Probation may be a potential alternative.</p> <p>Greg directed the group to a hand out of the recommendation and shared some data provided by the Division of Criminal Justice of a 3-year bond analysis in all counties and with a breakdown of the counties that have pretrial supervision and those that do not. A total of 82% of bonds with pretrial supervision are set in 17 counties The working group proposed a breaking point of a maximum of 1500 case filings for the counties that do not have pretrial services.</p> <p>The group discussed at length the data and recommendation (timeline and language) presented and agreed on the following changes:</p> <ul style="list-style-type: none"> - Identify those counties classified in statute (C.R.S. 13-6-201) as “D” and possibly “C” as eligible to authorize probation to perform pretrial functions - Move up implementation date from July 2021 to January 2020 - Clean up the language in the Proposed Statutory language section. <p>The Assessment Tools and Pretrial Services Working Group will report back at the Task Force’s January meeting.</p>
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<p>Issue/Topic: Working Groups - Report Out</p> <p>Recommendation Presentation Implementation of 2013 Statute</p> <p>Action:</p>	<p style="text-align: center;">Discussion:</p> <p><u>Implementation of 2013 Statute Working Group</u></p> <p>Maureen Cain directed task force members to copies of four recommendations in their handouts (FY19 – PR #06, #07, #08 and #09). She reminded the group that these recommendations were discussed at the November meeting and include revised language that resulted from those discussions. Discussion points on each of the recommendations can be found below.</p> <p>FY19-PR #06. Establish an Expedited Pretrial Release Process [Statutory]</p> <p>Establish, through a locally-determined research-based administrative order, an expedited screening process, conducted as soon as practicable, but no later than, 24 hours, after arrival of a person at the place of detention, allowing for the immediate release of certain low/medium risk persons. If a person does NOT meet the criteria for</p>
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<p>Issue/Topic: Working Groups - Report Out (continued)</p> <p>Recommendation Presentation</p>	<p>release as determined by administrative order, the person SHALL BE HELD until the next bail-setting court proceeding, but no later than 48 hours (See Recommendation FY19-PR #07). Also, expand the definition of “bonding commissioner.”</p> <p>FY19-PR #07. Revise the Initial Bond Hearing Process and the Considerations of Monetary Conditions of Bond [Statutory]</p> <p>For individuals who do not meet the criteria for expedited pretrial release (see Recommendation FY19-PR #06), revise the following statutory elements related to the initial bond hearing process, including the considerations of the conditions of monetary bond:</p> <ul style="list-style-type: none"> • Assess the person for risk before the hearing, require the court to consider financial circumstances of persons when setting bond, and presume release on bond without monetary conditions unless no reasonable non-monetary conditions will address public safety and flight risk. • Require the filing of felony charges within three days, excluding Saturdays, Sundays and legal holidays, unless good cause is shown. • Require reconsideration of monetary and/or non-monetary conditions of bond in both felony and misdemeanor cases (a “second look”) when good cause is shown and expand the definition of bonding commissioner. • Create an expedited docket for cases where the defendant is in custody on a monetary bond that he/she has not posted. <p><i>DISCUSSION</i></p> <p>The CDAC offered a handout including proposed amendments to the recommendation.</p> <p>A question was asked about the instance of a person arrested on a warrant from another jurisdiction. Would the screening be done within 24 hours by the agency issuing the warrant? Maureen responded in the affirmative.</p> <p>A concern was expressed that if someone is arrested on a warrant from another jurisdiction, judicial officers may change bond criteria of jurisdictions that issued the warrant.</p> <p>A language amendment was suggested that the screening process that would apply to the arrestees would be those of the jurisdiction from which the warrant was issued.</p> <p>The expectation that all jurisdictions adopt a universal screening mechanism was discussed but this would possibly create a resource challenge for some jurisdictions. It was suggested to better define the expectations and best practices.</p> <p>Maureen commented on Recommendation FY19-PR#07 - Section 7.1 – Initial setting of bond within 48 hours. There is currently no time period for the initial hearing to occur in statute. The CDAC proposed that the time period be two calendar days, excluding Sundays and legal holidays.</p> <p>Maureen also highlighted the statement in 7.1: <i>“While the “in-person” presence of the defendant and his/her attorney at the initial court appearance is preferable, the use of audio visual device may be used for the purposes of the initial court appearance pursuant to the provisions of Colorado Rule of Criminal Procedure 43.”</i></p>
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<p>Issue/Topic: Working Groups - Report Out (continued)</p> <p>Recommendation Presentation</p>	<p>Due to numerous issues raised with establishing a timeframe for jurisdictions to do initial bond hearings as well as the use of audio visual device, the group agreed to keep the law as currently written in C.R.S. 16-4-102. Maureen Cain moved to delete Element 7.1 “Initial Setting of Bond within 48 hours.” Tom Raynes seconded the motion. The motion to remove Element 7.1 above was approved unanimously.</p> <p>Tom Rayne withdrew the proposed amendments from CDAC for this recommendation.</p> <p>Additional language changes were made throughout the recommendations.</p> <p>Tom Raynes moved to adopt all the amendments made today and vote on recommendations FY19-#06 and FY19-#07. Cliff Riedel seconded the motion. The recommendations were approved unanimously.</p> <p>Jen Bradford presented on the following recommendations:</p> <p>FY19-PR #08. Encourage Best Practices for Pretrial Training and Data Collection [Statutory]</p> <p>To improve pretrial-related services throughout Colorado through education and improved data collection, this recommendation proposes the following:</p> <ol style="list-style-type: none"> 1) Request the State Court Administrator’s Office (SCAO) to establish, identify, and develop a core curriculum describing the best practices for pretrial and the pretrial process to disseminate to participating stakeholder agencies; 2) Encourage major pretrial stakeholders to participate in new hire and regular pretrial training via the SCAO curriculum. The major stakeholders recommended for inclusion are: Colorado District Attorneys’ Council (CDAC), SCAO, State Public Defender, Alternate Defense Council, Pretrial Services, and law enforcement; 3) Recommend the SCAO have primary oversight over curriculum development and maintenance, dissemination, and follow-up of individual stakeholder training protocols; 4) Recommend the SCAO implement evaluation protocols assessing the effectiveness of pretrial process through appropriate and data collection procedures. <p><i>DISCUSSION</i></p> <p>The group discussed whether this recommendation would be more appropriate as a policy vs. a statutory change.</p> <p>Maureen Cain asked Chris Ryan if the Blue Ribbon Commission would support this recommendation if introduced as a policy recommendation.</p> <p>Chris Ryan responded that the Blue Ribbon Commission is expressing support with regards to the pretrial efforts of this Task Force and believed that the SCAO would adopt this recommendation.</p> <p>The Task Force agreed to present recommendation FY19-PR#08 as a Policy. A motion was made and seconded to approve the amended recommendation. The recommendation was approved unanimously.</p>
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<p>Issue/Topic: Working Groups - Report Out (continued)</p> <p>Recommendation Presentation</p>	<p>FY19-PR #09. Clarify Public Defender and District Attorney Involvement in Bail Hearings [Statutory]</p> <p>Clarify in statute that a person is entitled to counsel at the initial bail setting hearing. Clarify that counsel shall have adequate time to prepare for an individualized hearing on bail. Retain language that DA has the right to appear and pretrial information shall be shared.</p> <p>The CDAC offered a handout including proposed amendments to the recommendation.</p> <p>Under this proposal, there will be no bail schedules so persons not released pursuant to administrative order shall be held until the court hearing and will not be allowed bail. Therefore, PD should be on case pursuant to the Chief Justice Directive that addresses this issue.</p> <p><i>DISCUSSION</i></p> <p>Some changes to the recommendation were made with regards to the prosecuting attorney’s right to appear at ALL hearings and adding “developed and validated risk assessment.”</p> <p>Tom Raynes withdrew the proposed amendments by CDAC for this recommendation.</p> <p>Maureen made the motion to approve the amended recommendation FY19-PR#09 and this was seconded by Bo Zeerip.</p> <p>The recommendation was approved with one dissenting vote.</p>
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<p>Issue/Topic:</p> <p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Discussion:</p> <p>Richard closed the meeting and summarized the next steps as follows:</p> <ul style="list-style-type: none"> • The four recommendations approved by the Task Force will be preliminarily presented at CCJJ December meeting. • Staff will forward a working document to the Preventive Detention Working for tomorrow’s meeting. <p>The Preventive Detention Working Group and the Assessment Tools and Pretrial Working Group will provide an update of their group progress at the January 8, 2019 meeting</p> <ul style="list-style-type: none"> • The January 8 meeting will be held from 1:30pm – 4:00pm.
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Next Meeting

January 8, 2019 1:30pm – 4:00pm 710 Kipling, 3rd floor conference room