

**Colorado Commission on Criminal and Juvenile Justice
Pretrial Release Task Force**

Pretrial Preventive Detention Working Group

Minutes

December 12, 2018, 9:00AM-1:00PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

WORKING GROUP MEMBERS

Bo Zeerip, WG Leader, District Attorney 21st Judicial District
Aubree Cote, Denver Pretrial Services
Margie Enquist, District Judge, 1st Judicial District
Bill Kilpatrick, Golden Police Department
Rick Kornfeld, Defense Attorney (on the phone)
Tim Lane, Colorado District Attorney's Council
Lucy Ohanian, Office of the State Public Defender
Colette Tvedt, Defense Attorney

ABSENT

Maureen Cain, Office of the State Public Defender
Tom Raynes, Colorado District Attorney's Council

STAFF

Laurence Lucero, Division of Criminal Justice

GUESTS

Rebecca Wallace, ACLU

<p>Issue/Topic: Welcome</p>	<p>Discussion:</p> <p>Bo Zeerip, Chair of the Working Group, welcomed and thanked the attendees for participating in these discussions, and asked everyone to introduce themselves.</p> <p>Bo explained that bail reform initiatives are currently underway across the country. If this proposal passes, Colorado will join the efforts undertaken to eliminate cash bail at the federal level and in states such as Washington D.C., New Jersey, New Mexico and California.</p> <p>The previous Pretrial Preventive Detention Working Group was formed in the August of 2017 and included all the current members and developed the current proposal. Tom Raynes of CDAC and Maureen Cain from the Public Defenders’ Office volunteered to participate on this Working Group, expanding the membership.</p> <p>Bo commended Judge Enquist’s participation and informed the group that the Judge will continue as a non-voting member. The previous Working Group voted for this proposal and, because the votes were tied, the Task Force instructed the Working Group to continue its efforts to reach consensus. These meetings are public and minutes will be posted on the CCJJ website.</p> <p>The meetings are scheduled on the Wednesdays after the Task Force meetings, from 9am-1pm until June of 2019.</p>
--	--

<p>Issue/Topic: Overall discussion</p> <p>Action:</p> <p><u>Working Group Representation:</u> Tim Lane to reach out to Colorado Jails Association</p> <p>Bo Zeerip to reach out to District Judge Bachmeyer and Supreme Court</p> <p>Tim Lane to reach out to Victims Organizations</p> <p>Bo Zeerip to reach out to New Jersey representatives</p>	<p>Discussion:</p> <p>Bo asked for a commitment from members as he expects that the work be completed in four to 6 meetings.</p> <p>Bo also asked if the group felt that there was enough stakeholder representation.</p> <p>It was suggested that a sheriff representative be added to better understand issues of transportation of jail inmates and related timeline requirements.</p> <p>There is a problem with individuals who have a warrant and who are arrested in one jurisdiction and who are not transported to the prosecuting jurisdiction for days, weeks, and even months. Should there be a statutory deadline within which defendants must be transported to the prosecuting jurisdiction? (7 days? Or less? Depending on distance?) And, should there be a state-wide inmate transport system? Funded by the state? Funded by charging local sheriff offices? A mixture of funding?</p> <p>Tim Lane will contact the Colorado Jail Association.</p>
--	---

<p>Issue/Topic: Overall discussion (continued)</p>	<p>Bo will reach out to Judge Bachmeyer and the Supreme Court.</p> <p>The victim representation was discussed and Tim Lane will reach out to organizations.</p> <p>Chief Kilpatrick expressed that while information from other stakeholders is always important, the Working Group should start reaching some conclusions.</p> <p>Colette suggested that this group hear from the stakeholders who worked on the New Jersey bail reform model. Collette added that, in New Jersey, pretrial agencies, the AG’s office, district attorneys and public defenders were all in agreement when the bail bond reform bill was introduced in January 2017. Prior to implementation, efforts included a significant amount of out-reach and education provided to the judicial branch, public defenders, and prosecutors. Since the implementation of bail reform in New Jersey, the majority of low level offenders are releasing. Summons are mostly used, handed out by police officers. Only 40 cash bails have been set since January 2017. Colette asked whether a meeting should be planned to hear from sheriffs, victims, district attorneys and defense community along with representatives from other states.</p>
<p><u>The Need for Data:</u></p> <p>Lucy Ohanian will establish a list of data requests</p> <p>Rebecca Wallace will work with Maureen Cain to gather information on other states (Washington D.C., New Jersey, New Mexico)</p> <p>Aubree Cote will bring back revocation data from other jurisdictions</p>	<p>Bo will invite representatives from New Jersey to present before the Task Force, CCJJ and Judicial’s Bail Blue Ribbon Committee.</p> <p>Lucy Ohanian expressed that it would be a good idea to ask those representatives from other states to look at our system and recommend what should be done before preventive detention occurs here to ensure that we are successful and we don’t end up filling up our jails. Lucy believes that additional data points should be gathered to better understand what is going on in the state and to inform these decisions. She suggested that the group establish a list of data needs. What are the rates of bond revocation in the state and for what purpose? She added that these efforts represent fundamental changes by the state, and education at the judicial, district attorneys and public defenders’ conferences is a critical component of implementation.</p> <p>Bo responded that, while in favor of additional information and data, the group was not commissioned to gather additional data or information but try to reach a consensus on the Working Group’s pretrial detention release proposal.</p>
<p><u>Consideration for Task Force</u></p> <p>Bo Zeerip will bring back issues discussed today for Task Force consideration</p>	<p>Bo mentioned that he recently talked with Maureen Cain who suggested that the ACLU assist on reviewing the detention prevention models in Washington DC, New Jersey and New Mexico. There is little information available on California’s reforms as these just passed.</p> <p>Colette echoed that New Jersey held numerous education meetings with stakeholders throughout the year before passing this reform.</p> <p>Lucy explained that she would like to obtain information on how many people are in jail on bond revocation in the state. She also expressed that she would</p>

<p>Issue/Topic: Overall discussion (continued)</p>	<p>like each jurisdiction to identify some kind of benchmarks regarding release as she is concerned that, with this model, judicial officials will detain people without any ability to post bail or revoke people because of bond condition violations.</p> <p>Lucy was asked how the bond revocation data would impact her decision to go forward with these efforts. Lucy responded that this information would inform her that courts in Colorado are not ready to implement preventive detention and some issues should be addressed in the statutory scheme.</p> <p>Bo responded that he didn't believe that the data are readily available and that such a study would take a minimum of two years to accomplish. He expressed not being willing to suspend the efforts of this Working Group.</p> <p>Chief Kilpatrick expressed being surprised with the current conversation and concerned with the amount of time this would take to complete. He thought that the Working Group was in general agreement and was going to discuss the few contention points remaining on the document.</p> <p>Rick Kornfeld expressed that it would be indeed good to have more data but believed that the Working Group should move forward.</p> <p>The group discussed at length the data collection request and will bring this issue to the Task Force for consideration.</p> <p>Aubree Cote suggested looking at the Washington D.C. revocation process because they have been doing this for a long time and have data around this issue. Aubree volunteered to bring some information from Washington D.C. to the next meeting.</p> <p>The Working Group discussed the expansion of the availability of audiovisual device capabilities and decided to bring this issue to the Task Force for consideration. Should the Task Force propose that all courts and jails have the ability to conduct pretrial audiovisual hearings? This would be necessary for a pretrial detention system to work effectively, but it would also be extremely helpful to expedite hearings within the current system. Questions: How many courts and detention facilities currently have this ability? How much would this cost? Who would pay for it?</p>
---	--

<p>Issue/Topic: Review of recommendation</p>	<p style="text-align: center;">Discussion:</p> <p>Bo directed the group to a document included in the meeting materials. The document contains proposed language and is color coded. In BLUE is the proposed language from CDAC, the RED is from the defense side, BLACK is the proposal as it stands and GREEN reflects agreement from both defense and prosecution.</p> <p>Bo proposed to discuss whether there are any significant elements that are</p>
---	--

<p>Issue/Topic: Review of recommendation (continued)</p>	<p>missing from the proposal, such as an "early release statute" to allow for release of arrested persons prior to seeing a judicial officer.</p> <p>The primary areas of concern and disagreement are (not in any particular order) as follows:</p> <ol style="list-style-type: none"> 1) The charge-based net (the target populations) 2) The hearing procedure - specifically whether the defendant can require the prosecution to call a witness; when there is a finding that the defendant committed the crime by clear and convincing evidence 3) The language regarding "risk:" - "safety of any other person" vs. "safety of any person or the community" vs. "risk that the defendant will fail to appear in court as required" vs. "risk that the defendant will attempt to avoid prosecution through non-appearance in court." <p>The group reviewed the document, made some changes and approved the language in Green where there is no disagreement.</p>
---	--

<p>Issue/Topic: Next steps and Adjourn</p>	<p style="text-align: center;">Discussion:</p> <p>Bo summarized that at the next meetings, the proposal will be finalized, additional information/education will be reviewed by the Working Group along with possible data collected.</p> <p>At each meeting, there will be education and data components. Bo mentioned that he will be unable to attend the next meeting in January and therefore the meeting in January is cancelled.</p> <p>Aubree Cote will present on the revocation data in February and information from Washington D.C. She clarified that the revocation information will refer to those cases where defendants were in pretrial programs.</p> <p>Maureen Cain and Rebecca Wallace will present relevant information from other states.</p> <p>Bo will bring back to the full Pretrial Release Task Force for following issues for consideration:</p> <ol style="list-style-type: none"> 1) Expansion of availability of audiovisual device capabilities 2) Issue of intrastate transport of jail inmates 3) Data collection
---	---

Next Meeting

February 6, 2019

9:00am – 1:00pm

700 Kipling, 2nd Floor CICJS Conference room