

Colorado Commission on Criminal and Juvenile Justice

Pretrial Release Task Force

Minutes

February 5, 2019, 9:00AM-11:00AM
710 Kipling, 3rd Floor Meeting Room

ATTENDEES:

TASK FORCE MEMBERS:

Bo Zeerip, District Attorney 21st Judicial District
Monica Rotner, Boulder County Community Justice Services
Greg Mauro, Denver Community Corrections
Judge Shawn Day, Aurora Municipal Court
Maureen Cain, Criminal Defense Attorney
Valarie Finks, Victim Services, 18th Judicial District
Judge Chris Bachmeyer, 1st Judicial District
Rick Kornfeld, Defense Attorney
Steve Chin, Mesa County Pretrial Services (on phone)
Lucienne Ohanian, Public Defender's Office (on phone)

STAFF:

Richard Stroker, CCJJ Consultant
Kim English, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice
Stephane Waisanen, Division of Criminal Justice

ABSENT:

Stan Hilkey, Chair, Department Public Safety
Bill Kilpatrick, Golden Police Department
Mindy Masias, State Court Administrator's Office
Kirk Taylor, Pueblo County Sheriff
Glenn Tapia, Judicial, Probation Services
Tom Raynes, CDAC
Clifford Riedel, Larimer County District Attorney

ADDITIONAL ATTENDEES:

David Schuck, ACLU
Tim Lane, CDAC

Issue/Topic:	Discussion
Welcome and Introductions	<p>Commission Consultant Richard Stroker informed the group that Chair Stan Hilkey was unable to attend due to a meeting at the Governor’s office. He thanked everyone for remembering the earlier meeting time and, if it worked for everyone, we would continue to meet at this time over the next few months.</p>

Issue/Topic:	Discussion
Approval of Minutes & Agenda	<p>Richard started the meeting with a request to approve January’s meeting minutes. Judge Shawn Day motioned to approve the minutes, Rick Kornfeld seconded the motion, and the minutes were unanimously approved.</p> <p>Richard stated that the agenda would be a little different today compared to prior meetings. The Task Force has moved ten recommendations forward, and all but one (which is set for a Commission vote Friday) have been approved by the Commission. We could declare victory and say we worked through all the issues that we set out to accomplish. Currently Bo’s Working Group is continuing its efforts on developing the preventative detention recommendation, and that will merit further attention from this group. I wanted to devote some time today to get your thoughts on additional areas that could be explored by the Task Force.</p> <p>Richard mentioned that if Task Force members were in agreement about additional issues to study, the topics would be brought to the Commission meeting this Friday for discussion. If the Commission is interested in the Task Force continuing to work on new issues, we will do so. If not, we will focus only on the work of the Preventative Detention Working Group.</p>

Issue/Topic:	Discussion
Presentation of Recommendations at CCJJ Meeting in January & Legislative Updates	<p>Maureen provided an overview of her presentation of her Working Group’s recommendations to the full Commission at its January meeting. She mentioned that there was a question raised at the previous Commission meeting, but with the help of Tom and Cliff, they were able to work out the issue prior to the final vote. All of the Task Force’s recommendations from Maureen’s Working Group passed the Commission and there were no amendments.</p> <p><i>Can we hear more about how these recommendations may/may not be turned into bills?</i></p> <p>Maureen explained that Commission Chair Stan Hilkey has been in contact with Senator Lee about the pretrial recommendations that were approved by the Commission. One question that has been asked is whether or not the recommendations should be in one bill or multiple bills? The court reminder bill is on a separate path (Note: this is technically not a Commission bill because it was drafted prior to the Commission’s final vote on this topic), and that she and Tim have been working on the language with the bill sponsors. She stated that it was scheduled for a vote tomorrow in the Senate Judiciary Committee.</p>

<p>Issue/Topic: Presentation of Recommendations at CCJJ Meeting in January & Legislative Updates (continued)</p>	<p>Maureen mentioned that Judicial’s Bail Blue Ribbon Commission had released its final report of recommendations which in large part mirrored the work of the Task Force and its recommendations.</p> <p>Greg mentioned that recommendation FY19-PR #03 that had passed the Commission was the anchor to all the other recommendations because it creates the formula funding for local pretrial supervision programs. The State Court Administrator’s Office (SCAO) is relying on funding to administer the program as well. Funding for pretrial programming is critical.</p> <p>Richard mentioned that Recommendation FY19-PR#04 (create a pretrial alternative for smaller jurisdictions) would be presented Friday to Commission for a vote.</p> <p>Kim believed there were two bills currently in the General Assembly that, if passed, would direct work to the Commission. One large task would go to the Age of Delinquency Task Force, looking at 18-20 year-olds to see if there are alternatives to placing them into the adult system (House Bill 19-1149). The second bill (Senate Bill 19-008) came out of the legislative summer interim committee that studied opioids. The interim committee bill requires the Commission to study and make recommendations pertaining to the following three topics:</p> <ol style="list-style-type: none"> 1. Alternatives to filing criminal charges against individuals with substance use disorders who have been arrested for drug-related offenses; 2. Best practices for investigating unlawful opioid distribution; and 3. A process for automatically sealing criminal records for drug offense convictions. <p><i>Is there going to be a bill that reduces drug possession charges to misdemeanors?</i></p> <p>Maureen stated that is was in the draft stage and that Representative Herod was supporting the bill.</p>
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<p>Issue/Topic: Future Study Topics</p>	<p style="text-align: center;">Discussion</p> <p>Richard asked the group to focus on the three study topics that were suggested by Bo’s Preventative Detention Working Group.</p> <ol style="list-style-type: none"> 1. Intrastate transfers of jail inmates 2. Use of audiovisual technology to conduct hearings 3. Having pretrial/jail data available <p>There was a lengthy discussion on intrastate transfers; the problem is when an individual is arrested in one jurisdiction, but has a warrant in another jurisdiction. There isn’t a statute that provides time frames for transfers to other jurisdictions. In some cases, individuals can spend many days/weeks in jail. A statewide transportation system would make sense. Also, having audiovisual capability would in many cases address the need for intrastate transfers, saving a lot of time and money.</p>
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<p>Issue/Topic: Future Study Topics (continued)</p>	<p>Judge Shawn Day mentioned that there is no uniformity in terms of transfer arrangements across counties.</p> <p>Richard stated that to study these issues the group needed to think about the following questions:</p> <ol style="list-style-type: none"> 1. What is being done? 2. How is it being done? 3. Who is doing it or going to do it? <p>Maureen stated that the issue of AV technology will probably not be solved in this task force. Perhaps Judicial will need a consultant to come in to help determine how courts and jails could increase the use of AV technology.</p> <p>It was mentioned that there were two critical groups that are absent from the discussion. The Sheriff’s Association and Judicial; we don’t have those representatives present today. The question remains: Is this Task Force the right group to address this?</p> <p>Richard stated that it was important for the group to focus on understanding the barriers related to AV resources, uniformity and interoperability in order to move forward.</p> <p>Expanding the use of AV in courts and jails requires significant resources. The group could propose a statewide system, but if a small county has limited resources and there is a mandate to get a system that most likely they will get the cheapest system available due to the limited amount of usage. After a few months’ technology will have changed and the county will most likely end up with a dated system.</p> <p>Maureen said she would talk with Judicial’s State Court Administrator, Chris Ryan, about this issue, and perhaps get an idea of the anticipated costs.</p> <p>Richard stated that the third item that was mentioned was data. What was the discussion in the Working Group regarding data?</p> <p>Bo mentioned that data had come up several times in the Working Group. The concern was the lack of available data pertaining to who is in jail. Questions of who/how many individuals are in our jails? How many haven’t posted bond? There is a statutory provision for pretrial services to collect certain data points but that is not always reliable.</p> <p>Maureen stated that Recommendation FY19-PR #08 (data collection) had passed and was a policy change not a legislative one. We don’t have all the data points assessed because we don’t have the expertise to do it. If there is no baseline created, I am not sure we can assess what has been done.</p> <p>Monica had concerns that this topic was brought up in the early days of the Task Force. Currently, the court reminder system is the only thing that has an empirical</p>
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<p>Issue/Topic: Future Study Topics (continued)</p>	<p>foundation, and is considered a best practice. There are practices in place but how effective are they? She wasn't sure that this was within scope of this Task Force.</p> <p>Richard asked the group if the existing requirements regarding the collection of pretrial services information might be examined: What are the data points? What was the original expectation? How it can be improved? If we had more information we would have a stronger understanding of the problem. If we had a group that was looking into data issues, maybe they could suggest a pilot to help us understand the information.</p> <p>Bo suggested another topic that the group could also take a look at and maybe there would be some interest. The initial bail hearing occurs within 48 hours in the preventive detention proposal. If the 48-hours piece doesn't go through with the larger preventive detention proposal, it can be a stand-alone issue: When does a person get an initial hearing? There is no deadline in the current statute. This is another narrow issue that maybe this group can address?</p> <p>Tim mentioned that without addressing the 48 hours when we cannot settle the transportation and the audiovisual issues. We cannot set some arbitrary deadline without knowing what the issues are.</p>
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<p>Issue/Topic: Next Steps & Adjourn</p>	<p style="text-align: center;">Discussion</p> <p>Richard stated that the next step would be to talk with Stan Hilkey about these potential future topics, and inform him of today's discussions. If Stan agrees, we will bring this to the Commission and let them know the topics that the Task Force would like to explore. Richard thanked the group for its hard work and efforts.</p> <p>Agenda for next meeting:</p> <ol style="list-style-type: none"> 1. Update from Bo's Preventive Detention Working Group. 2. Feedback from the Commission on the additional issues we would like to explore. Next steps depend on the feedback we receive at the Commission meeting. <ul style="list-style-type: none"> ● Audiovisual – Including how it can be used? What might be the costs associated with it? What kind of different methods might be used? ● Data Collection – Current data collection efforts in pretrial services and how it can be improved?
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Next Meeting

March 5, 2019/ 9:00am – 11:00am
710 Kipling, 3rd Floor Meeting Room