

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

Recommendation Review/H.B.19-1226 Working Group

Minutes

June 26, 2019 9:30AM-11:30AM
710 Kipling, OCC Conference Room 2nd floor

ATTENDEES:

TASK FORCE MEMBERS

Maureen Cain, WG Co-Leader, State Public Defender's Office
Greg Mauro, WG Co-Leader, Denver Division of Community Corrections
Steve Chin, Colorado Association of Pretrial Services, Mesa County Pretrial Services
Tom Raynes, Colorado District Attorney's Council
Chris Ryan, Colorado State Court Administrator
Glenn Tapia, Division of Probation Services
Steve Vasconcellos, Director of Court Services
Bo Zeerip, District Attorney's Office, Mesa County

STAFF

Stephané Waisanen, Division of Criminal Justice

GUESTS

Elisabeth Epps, Colorado Freedom Fund
Becca Curry, American Civil Liberties Union

<p style="text-align: center;">Issue/Topic</p> <p>Welcome & Introductions</p>	<p style="text-align: center;">Discussion</p> <p>Greg Mauro welcomed the group and asked attendees to introduce themselves.</p>
<p style="text-align: center;">Issue/Topic</p> <p>Task Force Expectations</p>	<p style="text-align: center;">Discussion</p> <p>At the June Pretrial Release Task Force meeting, the group briefly reviewed House Bill 2019-1226 and recommendations FY19-PR #01-#09 to identify areas of concern and potential amendments of the recommendations to forward to the Commission. The Task Force asked this Working Group to continue this review and also to estimate the cost of implementing pretrial services statewide.</p> <p>Greg agreed that there should be a focus on the fiscal note for statewide pretrial and added that the biggest opportunity for the group would revolve around risk assessment.</p> <p>Steve mentioned that, during the first couple of Task Force meetings after H.B. 1226 did not pass, the group discussed lessons learned. There was a lengthy conversation of what would/would not work. The group agreed that there was still much work that needed to be done in bond reform in order to produce recommendations.</p> <p>A disappointment to the group was the Task Forces’ decision to place the Preventative Detention Working Group (PDWG) on hiatus.</p> <p>Bo mentioned that there are some disagreements identified in the final preventative detention proposal that have not been resolved. The majority of the PDWG decided to suspend work until progress is made in overall pretrial reform.</p> <p>Maureen said the Office of the State Public Defender does not consider passing a bill on a constitutional amendment to implement preventative detention as having any political viability within the next couple of years.</p> <p>Tom agreed that the biggest issue he saw was political viability. There needs to be clear, statutorily-designated funding included in the bill. There has to be an agreement on the risk assessment tool and that every county has access to it.</p> <p>Bo added that the Task Force discussed whether enough support was demonstrated by the Governor’s office and the Judicial Department. There was apprehension about continuing to work on this topic without backing from these entities.</p> <p>Greg mentioned that there were additional areas of effort being addressed by the Task Force, including pretrial data and the use of audio/visual equipment to facilitate timely release of pretrial defendants.</p>

Issue/Topic	Discussion
<p>Working Group Study Approach</p>	<p>The group discussed the approach to review the recommendations and H.B.19-1226, including the need to estimate the cost of statewide pretrial services, and whether a grant program for pretrial services would be placed in Judicial or the Division of Criminal Justice.</p> <p>Chris stated that if a private company intended to provide these services, it would limit the option of an inter-governmental agreement. Additionally, concern was voiced that a private company could be profit-oriented and would manage cases differently than a government entity.</p> <p>Greg stated that one way to think about providing services might focus on sheriffs’ offices to conduct the assessment and to have the flexibility to involve the private sector or a non-profit for supervision.</p> <p>It was mentioned that assessment was an issue during the deliberations of H.B. 1226. Assessments were to be managed by a non-profit or government agency, but certain counties wanted to bring the assessment component into the sheriff’s department. This was not supported by the American Civil Liberties Union (ACLU) and the Colorado Freedom Fund.</p> <p>Becca stated that the ACLU’s goal is to make sure that, if it is a private provider, the contract would be with the county or a non-profit organization. The ACLU is also concerned about the use of risk assessment, including its use for setting bond conditions. The ACLU is concerned about racial bias. H.B. 1226 states that jurisdictions <i>shall</i> use the CPAT.</p> <p>Bo mentioned that the current statute requires the use of a risk assessment tool, if it is available. H.B. 1226 made a strong effort in addressing the concerns of ACLU and community groups.</p> <p>Elisabeth Epps commented she was hearing two misrepresented assumptions on the positions of the ACLU and the community. The ACLU goals are to remove money bail from the system and to eliminate bias.</p> <p><i>Is the objection to risk assessment based on data from other states? Or has the ACLU seen the risk assessment instrument detain people who otherwise would have been released?</i></p> <p>Becca stated there was concern about both issues. We have studies from other states and there are legitimate concerns about bias with the CPAT given the factors on the instrument.</p> <p><i>Would the Public Safety Assessment (PSA) be a viable alternative to the CPAT?</i></p> <p>Becca believed that the PSA was a better choice than the CPAT. She felt that the PSA separates the risk to public safety and the risk of flight (failure to appear) more effectively. It delivers separate scores and gives an individual a set of pretrial condition that directly address those specific risks. It also has a</p>

<p>Issue/Topic Working Group Study Approach (continued)</p> <p>ACTION: Maureen and Greg could draft better language to tie risk assessment to bond conditions.</p>	<p>mechanism for flagging people that are a serious risk. New Jersey is using the PSA assessment tool to make pretrial release decisions.</p> <p>Greg mentioned that a good start would be to identify better ways to validate instruments, controlling for demographic variables. This would provide better risk assessment evidence to report to decision makers at the General Assembly.</p> <p>Maureen mentioned that she could meet with Greg to rewrite some of the language related to risk assessment and its use to set bond conditions.</p>
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<p>Issue/Topic Next Steps & Adjourn Greg Mauro</p> <p>ACTION: Revise the recommendations to identify DCJ as the grant funding agency and to involve DCJ in the risk assessment component.</p>	<p style="text-align: center;">Discussion</p> <p>There was consensus to revise the recommendation language to identify the Division of Criminal Justice as the grant funding agency, providing the funding for assessments and pretrial services and to include the Division in the risk assessment component.</p> <p>Greg thanked everyone for their time and contributions.</p>
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NEXT MEETING

Tuesday, July 23, 2019 10:00AM- 12:00PM

NEW LOCATION

1300 Broadway, 12th Floor, Denver