

*Colorado Commission on Criminal and Juvenile Justice*

**Pretrial Release Task Force**

**Minutes**

September 13, 2019, 9:30am - 12:00pm

Lookout Mountain Room

Jefferson County Government Bldg., 100 Jefferson County Parkway, Golden CO

**ATTENDEES**

**TASK FORCE MEMBERS**

Stan Hilkey, Chair, Department Public Safety  
Steve Chin, Mesa County Pretrial Services  
Shawn Day, Judge, Aurora Municipal Court  
Janet Drake, Attorney General's Office  
Valarie Finks, Victim Services, 18th Judicial District  
Rick Kornfeld, Defense Attorney  
Greg Mauro, Denver Community Corrections  
Lucienne Ohanian, State Public Defender's Office  
Tom Raynes, Colorado District Attorneys' Council (CDAC)  
Clifford Riedel, Larimer County District Attorney  
Monica Rotner, Boulder County Community Justice Services  
Sean Smith, La Plata County Sheriff's Office  
Adam Zarrin, Governor's Office  
Bo Zeerip, 21<sup>st</sup> Judicial District Attorney's Office

**ABSENT**

Chris Bachmeyer, 1<sup>st</sup> Judicial District Judge  
Maureen Cain, Public Defender's Office  
Bill Kilpatrick, Golden Police Department  
Glenn Tapia, Judicial, Probation Services

**STAFF**

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

**GUESTS**

Becca Curry, ACLU  
Elizabeth Epps, Freedom Fund  
Tim Lane, CDAC

Issue/Topic	Discussion
<p>Welcome and Introductions</p>	<p>Chair Stan Hilkey welcomed the group and asked everyone in attendance to introduce themselves.</p> <p>Stan asked if anyone had corrections or additions to the minutes from the August meeting. With none offered, he asked for a motion to approve the minutes from the August meeting. The minutes were unanimously approved.</p>

Issue/Topic	Discussion
<p>Report Out: Data Collection Working Group</p>	<p>Monica Rotner reported that the Data Working Group met seven times with the goal of identifying key decision points and specific data to be collected by local pretrial service programs.</p> <p>Monica directed the group to the first drafts of two recommendations from the Data Collection Working Group.</p> <p><i>FY20-PR#01 – Implement Pretrial Measurement and Data Requirements [Policy]</i> Local pretrial service programs, State Court Administrators Office and other data repository entities must gather and submit specific, case/person level data elements to the Division of Criminal Justice annually. These data must include distinct performance and outcome measures (detailed data elements in the addendum). A permanent data advisory group, to include representation of pretrial stakeholders, will be staffed by the Division of Criminal Justice. Support for staffing, pretrial data management and analysis, and annual reporting, requires 1.0 FTE.</p> <p>The group discussed how this activity will likely require additional IT consulting services to develop the plan for collecting the data.</p> <p><i>FY20-PR#02 – Implement Pretrial Measurement and Data Requirements [Statutory]</i> Local pretrial service programs must gather and submit specific, case/person level data elements to the Division of Criminal Justice.</p> <p>The second draft recommendation refers to the current statutory pretrial services reporting requirement in C.R.S. 16-4-106, and recommends that it be replaced with new language identifying DCJ as the central repository for all pretrial services data required by these recommendations, replacing the State Court Administrators Office as the reporting body.</p> <p>Proposed statutory changes to C.R.S. 16-4-106 were forwarded electronically to the group during the meeting.</p> <p>The group discussed the statewide availability of the data. The group reviewed and discussed the list of data elements attached to PR#01; these were categorized by color indicating level of availability. GREEN AND YELLOW</p>

<p><b>Issue/Topic:</b> Report Out: Data Collection Working Group (continued)</p> <p><b>ACTION:</b> The recommendations will be revised and submitted for review and vote at the next Pretrial Task Force meeting.</p>	<p>indicate that the information is generally available while RED indicates that the data is not readily available and may require resources to obtain.</p> <p>The group talked about the inconsistency of data entry/coding by court clerks across the state, particularly regarding warrantless arrests and summons. This is a significant problem as these data are currently not reliable. Should be requirement for Judicial to train on clerks on specific data elements to ensure consistency?</p> <p><i>Case initiation, revocation of summons, public safety rate by Victims of Right Act (VRA), and cash only bond posted</i> will be added to the list of data elements to be collected.</p> <p>The Task Force decided that the data advisory group should be legislatively created with funding for FTE and IT consultant fees. The CDPS Executive Director will be the appointing authority for the data advisory group and there will be sunset review. More information about the advisory group functions and composition will be described in the recommendation. The recommendations from the Data Working Group will be submitted separately from other Pretrial Working Group recommendations.</p> <p>Additionally, a problem statement will be added in the discussion section.</p>
---	--

<p><b>Issue/Topic:</b> Report out Judicial Engagement Working Group</p> <p><b>ACTION:</b> The Working group will continue its work and report at the next Task Force meeting; Monica will forward information to Lucy</p>	<p style="text-align: center;"><b>Discussion</b></p> <p>Lucy Ohanian reported that the Judicial Engagement Working Group did not meet since the last Pretrial Task Force meeting.</p> <p>The next step for the Working Group is to identify plenary speakers who can potentially present at next year Judicial Conference. The plenary speakers would discuss bail reform and bail practices. Lucy welcomed suggestions for presenters from Task Force members.</p> <p>Monica mentioned that she attended the Conference of State Court Administrators (COSCA) for the Western Region in March 2019. She also mentioned that the Judicial Department submitted a technical assistance request for speakers was submitted to and approved by the National Center for State Courts. Monica will forward the information to Lucy.</p>
---	--

Issue/Topic	Discussion
<p>Report out: Recommendations Review / HB19-1226 Working Group</p>	<p>Greg Mauro reported that the Working Group is continuing its review and revision of the FY19 Pretrial Task Force recommendations approved by CCJJ, ensuring consistency with the amended elements of H.B. 19-1226.</p> <p>Below are points of consensus and areas of discussion among the Working Group members:</p> <ul style="list-style-type: none"> <li>• Increase use of summons. Mandatory issuance of summons, mandatory arrest and discretionary arrest. Statutory language will be drafted.</li> <li>• The Division of Criminal Justice will evaluate and monitor pretrial release programs similar to DCJ’s similar responsibilities in community corrections. This would include setting standards, performing audits, collecting data and providing training.</li> <li>• Use of risk assessment and data collection for the risk instrument. Any pretrial risk assessment tool used in Colorado shall meet specific criteria. The risk assessment has to be empirically developed and validated and continuous efforts should be made to maximize its accuracy and statistically minimize potential race/ethnicity and gender bias. The Working Group discussed whether the tool is to be used to determine release and/or to set conditions; whether it is to use at first appearance, or at pre-appearance.</li> <li>• Evaluate the Judicial Branch reliance on the risk assessment tool. The risk assessment tool will not be the sole factor in the release decision and that other statutory factors should be considered.</li> <li>• Develop a funding source. Maureen and Bo submitted a set-aside budget estimate to the Governor’s Office. The estimate includes:             <ol style="list-style-type: none"> <li>1. DCJ Admin costs (data gathering and reporting, assessment tool selection and analysis, best practices/standards, training).</li> <li>2. Initial start up and training costs – available grants for counties without pretrial services and a maximum dollar amount per county.</li> <li>3. Pretrial – Initial risk assessment. Counties may request funding up to 2 FTEs (Full-Time Employees) – based on the number of filings per year. Risk assessment will be a county government function and shall not be contracted to for-profit or non-profit entities.</li> <li>4. Pretrial services – Supervision. Provide funding to jurisdictions that do not have pretrial supervision services. Counties may request funding for up to 1 FTE based on the estimated number of higher risk defendants needing supervision. Limit supervision funding to only those providing services for individuals who are higher risk.</li> </ol> </li> <li>• Eliminate violation of bail bond (VBB) offenses and clarify violation of protective order (VPO). Regarding VBB, fifty percent of new crimes for people on bond are violations of bail bond conditions. Rather, if someone violates a bail bond condition, the judge can revoke the bond, which would</li> </ul>

<p><b>Issue/Topic</b> Report out: Recommendations Review / HB19-1226 Working Group (continued)</p>	<p>allow the judge to issue a contempt of court order and sentence the person to jail for a maximum of 48 hours.</p> <ul style="list-style-type: none"> <li>• Continued discussion on conditions of release and limited supervision. The issue of monitoring sobriety is still under discussion.</li> <li>• Expedited process of release by bonding commissioners before court appearance within 24 hours.</li> <li>• Clarify district attorney and public defender involvement.</li> <li>• Mandated training.</li> <li>• Video conferencing capability.</li> </ul> <p>Cliff Riedel expressed concerned about limiting funding for supervision to high risk defendants. Cliff reminded the group that judges are the ones setting bond conditions and not county officials. It seems unfair that counties end up being responsible for those additional supervision costs when the decision is made by judges.</p> <p>Bo Zeerip commented that the formula allows for complete funding for those jurisdictions that do not provide pretrial services.</p> <p>The Task Force had a lengthy discussion with guests about payment by defendants of fees for supervision, how high risk is defined and the use of risk assessment tool.</p>
--	---

<p><b>Issue/Topic:</b> Next Steps and Adjourn</p> <p><b>ACTION</b> The Working Group will present preliminary recommendations at the Task Force in October.</p>	<p><b>Discussion</b></p> <p>At the October Pretrial Task Force meeting, the Data Working Group and the Recommendations Review/HB19-1226 Working Group will present recommendations for a potential Task Force vote.</p> <p>Meeting adjourned at 12:00 pm</p>
---	--

**Next Meeting**

Tuesday, October 8, 2019/ 1:30PM – 4:00PM  
2<sup>nd</sup> Floor Meeting Room  
710 Kipling St., Lakewood, CO 80215