



## Colorado Commission on Criminal and Juvenile Justice

### Minutes

March 13, 2015

Lakewood Civic Center – Employee Relations Training Rm  
480 S. Allison Parkway  
Lakewood, CO 80226

#### Commission Members Attendance

|                                 |                              |  |
|---------------------------------|------------------------------|--|
| Stan Hilkey, Chair              | Beth McCann                  | Alaurice Tafoya-Modi                   |
| Doug Wilson, Vice-Chair         | Jeff McDonald- <b>ABSENT</b> | Pete Weir                              |
| Jennifer Bradford               | Norm Mueller                 | Robert Werthwein                       |
| Sallie Clark                    | Kevin Paletta                | Meg Williams                           |
| Cynthia Coffman - <b>ABSENT</b> | Joe Pelle                    | Dave Young                             |
| Kelly Friesen                   | Eric Philp                   | State Judicial Rep. - <b>ABSENT</b>    |
| Charles Garcia                  | Rick Raemisch                | Legislative-House (R) - <b>ABSENT</b>  |
| Kate Horn-Murphy                | Brandon Shaffer              | Legislative-Senate (R) - <b>ABSENT</b> |
| Evelyn Leslie                   | Pat Steadman- <b>ABSENT</b>  | Jeanne Smith, <i>Ex Officio</i>        |

**Substitutes:** David Blake for Cynthia Coffman, Attorney General's office

#### CALL TO ORDER AND OPENING REMARKS

##### Stan Hilkey, Chair

Mr. Hilkey (Chair and CDPS Executive Director) welcomed everyone and thanked them for attending. He introduced new member Robert Werthwein from the Colorado Department of Human Services and explained that Mr. Werthwein is replacing former DHS Representative Julie Krow. Another new member, Representative Lang Sias, has been appointed to the Commission but is not in attendance. Mr. Hilkey added that Judge Theresa Cisneros, the Commission's Judicial Representative, has submitted her resignation from the Commission and that he is awaiting word on the new Judicial appointment.

Mr. Hilkey requested any corrections to the Minutes and none were offered. A motion to approve was made and seconded and, with all in favor, the motion passed and the Minutes were approved.

Mr. Hilkey relayed that several legislators were invited to this meeting to take part in the Race and Ethnicity Data Collection segment of the agenda. He said that while none of the legislators had yet to arrive he did expect that Representative Rhonda Fields and others would likely be in attendance for the second half of the meeting. He explained that there is also a panel of criminal justice practitioners in attendance and that they will be presenting during the Race and Ethnicity Data Collection portion of the meeting.

Mr. Hilkey offered an overview of the agenda and requested any additions or corrections, to which there were none.

**LEGISLATIVE UPDATE****Jeanne Smith, DCJ**

**Legislative Update.** Ms. Smith began the legislative update by directing members' attention to a handout prepared by CDPS Legislative Liaison Jana Locke that summarized the status of the Commission produced bills:

- HB 2015-1022: Juvenile Petty Offense Contracts. This bill was derived from the work of the Juvenile Justice Task Force (Recommendation FY15-JJ#01) and has gone to the Governor for signature. Ms. Smith thanked and congratulated Representative McCann and Senator Steadman for their work on the bill.
- HB 2015-1072: Interactive Electronic Harassment. This bill was derived from the work of the Cyberbullying Subcommittee (the related report from the Subcommittee may be found at, [cdpsdocs.state.co.us/ccjj/Resources/Report/2014-12\\_CCJJCyberbullyingRpt.pdf](http://cdpsdocs.state.co.us/ccjj/Resources/Report/2014-12_CCJJCyberbullyingRpt.pdf)). Ms. Smith reported that this bill is moving along fine and passed out of Senate Judiciary five-to-nothing.
- Early Discharge from Lifetime Supervision for Sex Offenders due to Disability or Incapacitation. There are no sponsors yet for this bill, derived from the work of the Comprehensive Sentencing Task Force (Recommendation FY15-CS#01). It has not been introduced and, given the remaining time in the session, it appears unlikely it will be introduced this session. Ms. Smith added that maybe next session the Commission can try again to find a sponsor.
- HB 2015-1203: Retroactively Provide Earned Time Credit to Certain Individuals Sentenced Under the Habitual Criminal Statute. This bill is derived from the work of the Comprehensive Sentencing Task Force (Recommendation FY14-CS#03). This bill is being sponsored by Representative Rosenthal and Senator Steadman.
- SB 2015-007: Community Corrections Boards Standards. This bill, derived from the Community Corrections Task Force (Recommendations FY15-CC#01, 03, 04, 06, & 08), has passed Senate Judiciary and will likely sit in the Senate Appropriations Committee for a while due to a significant fiscal note.

**TASK FORCE AND SUBCOMMITTEE UPDATE**

**Reentry Task Force.** Mr. Hilkey informed commissioners that he will be chairing the Reentry Task Force. Members assigned thus far include Commissioners Rick Raemisch, Jennifer Bradford, Kelly Friesen, Representative McCann, Senator Steadman and Sheriff Joe Pelle. Other non-commissioner members include Mark Evans from the Public Defender's office, Tom Giacinti representing community corrections, Alfredo Pena from the parole board, Christie Donner acting as an advocacy representative, Hassan Latif as an offender representative and Regina Huerter from the Denver Crime Prevention and Control Commission. A victim's representative, and representatives from probation, the Division of Youth Corrections, and behavioral health have yet to be identified.

Other representatives to be included as needed include someone from the VA, ICE, HUD, CMHIP, DOLA, HCPF, a homeless provider representative and a faith based representative.

Mr. Hilkey added that meetings are scheduled for the second Wednesday of every month as they coincide with the Commission meeting (held the second Friday of every month). Mr. Hilkey asked if anyone had any questions. Meg Williams inquired if this group would be addressing juvenile reentry issues. Mr. Hilkey responded that there is nothing specific to juveniles at this time but that all of the work could contain elements pertaining to juveniles. Robert Werthwein interjected that Chuck Parkins is taking over as the new head of the Division of Youth Corrections and would probably want to be included on this task force.

**Data Sharing Task Force Update.** Jeanne Smith told commissioners that the proposed plan is to do something slightly different with the Data Sharing Task Force. Rather than seating a full task force with scheduled monthly meetings, this group will start out with a smaller policy oversight group consisting mainly of a 6-7 of commissioners and CCJJ staff. The policy oversight group will present a more thorough plan at the April meeting. As of right now the plan is to pull together a user's group at each level of the system to address questions like "What kind of data do you gather, where do you get it, what would you like to have that you do not now have, and how would that data help you?" This would be considered Phase I of the work and would consist of putting together a business case for why data sharing is important and how to move forward with the work. Ideally, staff would also conduct focus groups around the state to get input from people who can't usually participate. Phase II of this group's work would be to delve deeper into the business mechanics of how the work could be undertaken.

Ms. Smith added that as for a timeframe, the goal for the oversight group is to hold its first meeting in April. The user's group and focus groups would be held May through September. Ideally the oversight group will have a business case drafted and ready to present to the Commission in October/November.

Brandon Shaffer added that he is a member of the Uniform Law Commission and that there is a national task force working on a similar issue of data sharing.

Sallie Clark reported there was also a national discussion recently at a public safety round table with the MacArthur Foundation about useful information for county officials related to jail populations. She added that it can be confusing as a local County Commissioner to not know what types of questions to ask. She stated that in looking at data, what would be helpful from a county perspective is a consistent model that is used throughout the state. She suggested providing information that has more meaning regarding programs and services, the impact of these, and the effect of such programs/services on county budgets.

**Mandatory Parole Subcommittee.** Mr. Wilson reported that he will be chairing the Mandatory Parole Subcommittee which will include Commissioners Brandon Shaffer, Charlie Garcia, Norm Mueller, Robert Werthwein and Kate Horn-Murphy. He added that he and Chairman Hilkey met with Representative Kagan (Chair of the House Judiciary) who agreed to participate. Senator Roberts (Chair of the Senate Judiciary) has also been invited to participate. This committee will hold its first meeting on Monday, May 11 and the goal is to meet through October. Meetings will be held at the Public Defender's office, 1300 Broadway, and meeting notices will be sent out a week in advance. He added that a smaller group including staff will meet before the meeting

and pull together a background packet of information on the history of mandatory parole in Colorado. Doug added that this committee will not be specifically touching on juvenile issues as this is not the direction the Commission voted on last month.

## **MOR / Final Recommendations Discussion and Vote**

### **Stan Hilkey, Task Force Chair**

**Minority Over-Representation Subcommittee.** Mr. Hilkey explained that the Minority Over-Representation Subcommittee is prepared to wrap-up their work today. He reminded commissioners that there were three recommendations still requiring follow-up action (from the Commission's original directives /recommendations from FY 2011<sup>1</sup>) by the Subcommittee and the Commission. Two of the three recommendations (FY15-MOR#1 and FY15-MOR#2) are scheduled for a vote today. The third recommendation which proposes that state and local justice agencies collect race and ethnicity information on the populations they serve, will be discussed in further detail during the second half of the meeting.

### **FY15-MOR #01: Cultural Competency Training for All Justice System Agencies**

Mr. Hilkey reminded the group that FY15-MOR#01 (regarding cultural competency training for all justice system agencies) was originally approved by commissioners in 2011, and that the current version to be voted on today expands the original recommendation with a plan for implementation. He explains that what is new to the recommendation regarding implementation is the suggestion that the training occur at the POST (Peace Officer Standards and Training) level. Last year a law went into effect mandating an additional 12 hours of discretionary in-service training at POST and it's believed the 3 ½ hour cultural competency training could be included in that allotted time. However, POST has responded that they already have an anti-bias training component in their current curriculum at the POST academy. Stan states that with that in mind the Commission would like to recommend that POST look at the existing curriculum training for POST academies and explore how to create a *continued* curriculum that delves deeper into this area and could be utilized as ongoing in-service training.

#### **Discussion:**

- Sheriff Pelle asked for clarification on whether this is about a one-time training or an annual in-service training. Mr. Hilkey replied that ideally it would be an annual in-service, but the problem with that is that it would encroach on the discretionary 12-hours. He added that the goal at this time is to send the recommendation 'as is' to POST and wait to hear their response on the best way to address the training.
- Representative McCann asked why the Commission would not want to simply recommend the 3 ½ training be used, especially with everything going on around the country in regards

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<sup>1</sup> All seven of the original directives/recommendations forwarded to the Minority Over-Representation for study and/or implementation may be found at, [cdpsdocs.state.co.us/ccjj/Committees/MORSub/CCJJ-MOR\\_Recommendations-08-2011.pdf](https://cdpsdocs.state.co.us/ccjj/Committees/MORSub/CCJJ-MOR_Recommendations-08-2011.pdf). The prioritization of these may be found at, [https://cdpsdocs.state.co.us/ccjj/Committees/MORSub/MOR\\_Priority-Planning-04-13-2012.pdf](https://cdpsdocs.state.co.us/ccjj/Committees/MORSub/MOR_Priority-Planning-04-13-2012.pdf). Final CCJJ recommendations targeting the MOR topic may be found on the Recommendations page on the CCJJ website at, [colorado.gov/pacific/ccjj/ccjj-recs](http://colorado.gov/pacific/ccjj/ccjj-recs).

to policing right now. Mr. Hilkey replied that at this point it is unclear how the 3 ½ hour training might overlap with what POST is already currently using.

- Pete Weir stated he is concerned about the Commission voting on approving this without knowing what the curriculum is and would like to see what it entails.
- Chief Paletta added that he thought the Commission was voting on sending this to POST and having them review the recommendation. He said that many departments are nationally accredited and that with the accreditation there is an ongoing anti-bias training requirement that occurs every three years and is typically a two hour class.

Chairman Hilkey reminded the Commission that from a process perspective the only thing that is offered right now is a recommendation to POST for work so that POST officials can return to the Commission with an explanation of what is currently done, and whether what is entailed in this recommendation is currently being covered in the existing POST curriculum.

Joe Pelle moved to forward the recommendation to POST. Kevin Paletta seconded the motion.

VOTE: (a) I support it           16  
      (b) I can live with it    3  
      (c) I do not support it  0

Recommendation FY15-MOR#01 was approved.

#### **FY15-MOR #02: Race and Ethnicity Diversity Tracking of All Justice Agency Staff**

Mr. Hilkey reviewed the second MOR recommendation, FY15-MOR #02: Race and Ethnicity Diversity Tracking of All Justice Agency Staff. He explained that the Subcommittee felt one of the best was to collect and track this information statewide would be at the POST level. POST collects information on every sworn peace officer in the state of Colorado. He added that through a preliminary conversation with POST the consensus is that it would not be hard for them to modify the intake form when they onboard new officers. However, it is unknown what would be needed to modify the database to be able to track the data. The recommendation at this point is to move this forward to POST so they can begin to explore the modifications and return to the Commission with any updates. POST says they are also now currently collecting race and ethnicity data on all officers graduating from the academy.

Mr. Hilkey added that there is a second part to this recommendation. The POST portion of the recommendation takes care of sworn peace officers, and the second part of the recommendation is that agencies collect the same race and ethnicity data on ALL members of their staff and make that available on their own websites or upon request to anybody who asks.

#### **Discussion:**

- Chief Paletta adds that nationally accredited agencies are already collecting this data on their civilian and sworn staff, so for those agencies this is not a big request. He also added that his agency and others are continually striving to recruit minorities for all positions and any suggestions on how to better accomplish that would be welcome.

- Chief Paletta added that at least three agencies in the state require a four-year college accredited degree (Lakewood, Arvada and Pueblo) for police which changes the landscape on recruits in those areas.
- Mr. Hilkey added that the President's Task Force on 21<sup>st</sup> Century Policing report was released this month and that both of the CCJJ's recommendations (FY15-MOR#01 and FY15-MOR#02) dovetail with recommendations in that report.

Alaurice Tafoya-Modi moved to forward the recommendation to POST. Sallie Clark seconded the motion.

VOTE: (a) I support it           18  
      (b) I can live with it    2  
      (c) I do not support it  0

Recommendation FY15-MOR#02 was approved.

Mr. Hilkey stated that the third recommendation (Race and Ethnicity Data Collection on Offender Populations) has not been brought forward as there are significant challenges with the details. He added that there are many different pieces of legislation circulating as part of this legislative session that address this issue and that the second half of this meeting will be dedicated to an in-depth review of current race and ethnicity data collection practices at various points throughout the system.

Mr. Hilkey added that while minority overrepresentation and disproportionate minority contact work will continue through the Commission as part of its statutory charge, this particular Subcommittee will cease work on the original seven recommendation produced by the Commission in 2011.

Mr. Hilkey took the opportunity to acknowledge the arrival of Representative Rhonda Fields to the meeting. He explained that there are a handful of practitioners lined up to present during the afternoon to offer their perspective on current practices regarding race and ethnicity data collection at various points in the system.

*<There was a break from 1:30-1:45pm at this point in the meeting>*

## **RACE AND ETHNICITY DATA COLLECTION**

### **Introduction and Overview – Jeanne Smith**

Jeanne Smith introduced this segment of the agenda and stated that the goal of the presentation is to walk everyone through the mechanics of data collection at various points in the system as it relates to race and ethnicity. This work is in-line with the Commission's efforts over a number of years to look at the issue of minority overrepresentation. The hope for this presentation is to focus more on the mechanics of data collection or the "what" as it relates to race and ethnicity data, rather than the "why."

Ms. Smith added that the Minority Over-representation Subcommittee has been working on a variety of issues and recommendations over the years, but that it is not realistic for the Commission to ask one subcommittee to “solve all the issues of MOR.” This presentation is part of an effort to bring this particular issue (race and ethnicity data collection) back to the larger group so commissioners are aware of the myriad of issues involved.

Ms. Smith explained that the upcoming panel discussion will include what the current data collection processes are at points along the system. She explained that at the close of the presentation the Commission will look at pending legislation as it relates to this issue. She thanked Senator Fields for being present as she is the sponsor for one of the pieces of legislation.

Part of the challenge with this particular issue is the different definitions of race and ethnicity by different organizations. For example, the U. S. Census Bureau defines race as White, Black or African American, American Indian, Asian, Native Hawaiian or Pacific Islander. The NIBRS (National Incident Based Reporting System) system includes an additional category of Unknown. ‘Unknown’ is not a national category but a Colorado specific category. It is important to keep in mind that different entities collect different data. Ms. Smith explained that it can be difficult to understand the differences between race and ethnicity. Race is sometimes described as ‘unchangeable’ and relating to biological characteristics including things like skin color, eye color, etc. Ethnicity can often be defined as a social group, religious group or relating to a particular country (e.g., French, Jewish, Russian).

In Colorado one of the ongoing struggles with race and ethnicity data collection occurs when agencies or processes only collect race and not ethnicity data. When this occurs, Hispanics are included in the race category of ‘White’ and consequently information specific to Hispanics is lacking.

Ms. Smith offered that another issue with race and ethnicity data collection relates to how the information is gathered. For example, the way someone categorizes themselves (self-identification) may be different from the way a law enforcement officer might categorize them. Another issue with ethnic designations like ‘Hispanic’ is the many subcategories that may be included (e.g. Mexican, Spanish, Costa Rican, etc.). There is also another issue when it comes to people with mixed racial and ethnic backgrounds and how best to capture those nuances. Another issue area is that there are not consistent definitions across agencies.

Ms. Smith added that there is yet another issue when it comes to the flow of data from one agency to another. Race/ethnicity data that is collected by one agency is not necessarily pushed through to the next agency as a case moves forward in the system.

Another challenge is that municipal court data is not centralized in any one location. Many offenses (like traffic tickets) end up in municipal courts rather than in state courts. The lack of a statewide municipal court data system results in a significant gap in data. Judicial’s data system houses district court and county court cases, but Denver County Court does not participate in this system. Denver District Court does report to state Judicial, but Denver County Court does not.

Ms. Smith reminded the group that the goal of this presentation is to show some of the roadblocks to the implementation of the recommendation that calls for the collection of race and ethnicity data by all criminal justice stakeholder agencies. The presenters are going to walk through what happens in their particular agencies to better explain what is being collected, how it is being collected and where the data is housed after being collected.

**Panel Discussion / Point of Contact**  
**Sergeant Randy McNitt, Lakewood P.D.**

Jeanne introduced Sgt. Randy McNitt with the Lakewood Police Department. Sgt. McNitt stated he was asked to talk about the initial point of contact with law enforcement and that in order to help explain the process he put together a handful of PowerPoint slides showing the documents used (specifically in Lakewood) to collect different data.

- County summons – Collects race but not ethnicity. This document is used to charge a range of offenses from misdemeanor crimes to traffic offenses; the information is forwarded to the state system.
- Municipal summons – Collects race and ethnicity. This document is used for traffic violations or municipal ordinance violations and then is forwarded to the municipal court. Data for the county summons or municipal summons can be gathered in a number of different ways and it is often obtained from an I.D. card (such as a driver's license). If the person does not provide documentation with race/ethnicity information, the officer will simply ask them. Some identifying data is determined through observation (e.g., hair color, eye color). He indicated that sometimes race is determined by observation of the officer, but that sometimes if an officer is unsure they will ask the individual.
  - Race categories used for data collection at this point are the same as the Federal Bureau of Investigation's NIBRS (the National Incident Based Reporting System) reporting categories (White, Black, Asian, Native American, Native Hawaiian or other Pacific Islander).
- Custody report – Collects race but not ethnicity. This document is used when someone is arrested and held in a jail facility. This form is standard in Lakewood.
- Field contact card – This document is used by officers to document a variety of different contact situations short of issuing a summons, possibly for suspicious activity, etc. Information from this document is put into the records management system.
- Information from all the documents mentioned is eventually entered into the department's records management system (RMS) by a records staff person. Data that goes into the RMS is collected on a 'Name Screen.' Data is collected and used for everyone involved in an incident report including suspects, victims, witnesses, guardian of a juvenile, etc. The data could be self-reported or gathered in a variety of other ways. Not all of the fields are mandatory.
- The RMS system DOES have a field for ethnicity, but it is limited to three possible responses: Hispanic, not-Hispanic or unknown. Ethnicity data is collected at this point to help with mandated NIBRS reporting, which does require ethnicity.
- If records management personnel receive a summons or other documentation that does not have identifying data and there is no way of obtaining it, they will record 'Unknown.'



- Mr. Hilkey elaborated that this is a master names file, so it could be used during a traffic stop, but then if that same person was victim of a burglary a month later that master names file would be used again. It is used for any association of that particular person with any event.
- Sgt. McNitt clarifies that the data collection systems he is discussing are specific to Lakewood, and that different law enforcement agencies use different systems and different records management systems.
- Norm Mueller asks if officers are diligent about filling out the race field. Sgt. McNitt answered that yes, officers do collect this data.
- Representative Fields asked if similar information (like race data) is collected about the officer. Sgt. McNitt answered that yes, the name (and identifying information) of the documenting officer is captured on a different screen but is traceable for every incident.
- Representative Fields asked if officer trends are tracked and reported. Chief Paletta answered that yes, leadership looks at arrest data, use of force data, traffic stop data, etc. He adds that the Sheriff's office then looks at inmate data and demographics as well.
- Sgt. McNitt clarified that race and ethnicity data on the officer is not contained in each individual report but is available through Lakewood P.D. and is easily cross-referenced.
- Chief Paletta added that any law enforcement agency with a computerized RMS system will have a names screen and will collect data that looks very similar.
- Sheriff Pelle expressed concern about some of the pending legislation that requires a report on every 'contact' that an officer makes. He added that an officer can make hundreds of contacts (many benign) in a year that do not generate a report. Creating reports on routine contacts would create a debilitating amount of work.
- Sgt. McNitt added that the majority of contacts he and fellow officers have with people (informal contact, just talking with people) do not end up in a report. What they general document are criminal offense related contacts.
- Sgt. McNitt added that when he is sent to investigate an incident, it starts with a simple pen and paper documentation of the incident.
- Mr. Mueller asks if there is a movement underway to supply law enforcement with iPads or other electronic tools instead. Chief Paletta responded that some departments are transitioning to better technology but pointed out there can be security issues with electronics. His experience has been that data collection would not be sped up on the front end, but electronic data collection could save time on the backend.
- Jennifer Bradford asked if officers know why the data is being collected (for instance to track disproportionate minority contact by particular officers). She wondered what the likelihood is of an officer misreporting information if they know they are being tracked on the 'types' of people they are contacting? Sgt. McNitt responded that the scenario is not likely because officers are not only held accountable for what they report, but they also want to produce as accurate of a report as possible for safety and other reasons (especially when talking about a suspect). Officers want to, as specifically as possible, describe a person.
- Chief Paletta shared that there are checks and balances for data integrity.
- Mr. Hilkey added that there is a robust element for data integrity in most agencies.
- Ms. Smith asked where the information goes after it is put into the records management system and if there is a central state repository. Kevin Paletta said there is a statewide

system for arrest data called COPLINK that allows agencies to share data across jurisdictions, but not every agency in the state participates (most do).

- Pete Weir asked how this relates to judicial issues. Kevin Paletta responded that the municipal summons and information will go to municipal courts and dead end there, however the name that was on the summons will reside in Lakewood's master name index, which will populate COPLINK.
- There are other requirements for juveniles as well. There are many different systems.

### **Panel Discussion / Booking**

#### **Sergeant Mike Cavin, Boulder County**

Ms. Smith introduced Sergeant Mike Cavin from Boulder County Sheriff's Department to discuss race and ethnicity data collection during the booking process.

- Sgt. Cavin distributed three documents to commissioners at the start of his presentation, including the arrest report and the adult-in-custody report which details custodial arrest.
- He reported that much of the information they have on an offender is already provided to them or already in the system.
- When booking someone into jail, the Sheriff's Department uses an adult-in-custody form. Staff first looks someone up on the master names list that was previously discussed. If the person already exists there, deputies use that personal data and pull it forward to start the booking process. That information will then auto-populate a number of the fields in the jail records management system.
- Some areas in Boulder County (Lyons, Longmont, and Lafayette) have mandated ethnicity fields and some do not.
- The custody report is produced from the data entered into the arrest system. That information then goes forward to the DA's and the courts.
- Mr. Hilkey added that events are also attached to the master names file, including inmate moves, inmate housing units, and anything that is occurring on the detention facility side of things. There is a lot of data gathered about an inmate's presence inside a jail.
- Ms. Smith asked how the information on the fingerprint card gets created. Sgt. Cavin explained that the information on the fingerprint card is generated from the first screen during booking. Information from the booking screen populates the fingerprint card and this is where criminal history information is located.
- Ethnicity information is NOT collected or tracked on the fingerprint card.
- Charlie Garcia asked if there is a way to tell (from the data collected) what the average length of stay is in a jail for Hispanics vs. Whites. Sgt. McNitt responded that while that specific information may not be automatically reported, the data is available to pull specific reports on a variety of elements.
- Sheriff Pelle added that each jail has its own system and its own capacity for tracking certain information. There is no central repository for all statewide jail data.
- Rep. McCann asked for clarification on tracking Hispanics vs. Whites. Eric Philp responded that the race category of 'Caucasian' includes all of the Hispanic groups.

**Panel Discussion / CBI and NIBRS**  
**Ted DeRosa and Darla Hackworth, CBI**

Ms. Smith introduced Ted DeRosa and Darla Hackworth from the Colorado Bureau of Investigation (CBI) to address the flow of information after it is gathered at arrest/booking. She added that CBI is the state repository for law enforcement arrest information.

- Mr. DeRosa introduced himself as the CJIS (Colorado Justice Information System) Officer for CBI and he noted that Darla Hackworth is the program manager for the NIBRS Program.
- Mr. DeRosa gave a quick overview on the National Incident Based Reporting System (NIBRS) and pointed out there are two distinct data flows, one from the local law enforcement agency's RMS system (which typically has ethnicity information) and one from the fingerprint card system (which contains only race data).
- He clarified that NIBRS data are incident data received from law enforcement RMS systems (this can also come through a paper report). The information populates CBI's NIBRS data system. NIBRS contains race (five choices) and ethnicity data (Hispanic, Non-Hispanic or unknown). That information gets forwarded to the FBI. CBI also produces an annual *Crime in Colorado* report that gets posted on the CBI website. NIBRS information in Colorado is also available to officers to query regarding individual suspects.
- Mr. DeRosa reported that jail booking data, which is based on the fingerprint card, does not contain ethnicity information.
- He added that another element in the proposed legislation is to gather race and ethnicity information from Judicial. Judicial's data system has a field for race, but the system obtains race/ethnicity data from the fingerprint card which does not contain ethnicity.
- Ms. Smith stated that many people look at NIBRS data, which contains both race and ethnicity information, and think "That will solve all our problems."
- Ms. Hackworth clarifies that all agencies in Colorado do not necessarily participate in NIBRS and that NIBRS does not track all incident information (for example, NIBRS does not track traffic information). Ms. Hackworth added that there's a state statute requiring all law enforcement agencies to report to CBI/NIBRS, however, there is no penalty if they fail to comply. There are about 20 agencies that do not report NIBRS to CBI and it varies somewhat year-to-year.
- Sheriff Pelle added that it is not cheap to become NIBRS compliant. It cost Boulder \$157,000 in software updates and two full-time employees to manage the data.
- Chairman Hilkey added that jurisdictions will often not comply not by choice but due to the technology expense and lack of resources.
- Ms. Hackworth added that the NIBRS data deals with arrest information and not disposition.

**Panel Discussion / District Attorney  
Dave Young, 17<sup>th</sup> Judicial District**

Ms. Smith introduced Commissioner Dave Young, the DA in the 17<sup>th</sup> Judicial District (Adams and Broomfield Counties), to discuss the process of obtaining race/ethnicity data at a district attorney's office. She reminded commissioners that DA's deal with state cases, not municipal court cases.

- When officers bring cases to the DA's office, the first thing the DA does is determine whether they think they can prove the case beyond a reasonable doubt and what the likelihood of success is at trial.
- DA's also look to see if they can disprove any defenses and check to make sure the defendant's constitutional rights are protected.
- Race, gender and ethnicity are not things the DA considers when determining whether to file charges. The DA is concerned with the nature of the crime and proving a case beyond a reasonable doubt.
- Mr. Young added that if his office is working on a hate crime they will consider factors like race and ethnicity, but that that only happens under rare circumstances.
- He says he is not aware of any DA's office in the state that tracks the race and ethnicity of defendants.
- When filing a criminal complaint for felony charges, the only data entered into that criminal complaint is what CBI just addressed in terms of race/ethnicity. That information—race, not ethnicity--then goes through the court system (Judicial).
- Mr. Young reiterated that as far as filing charges there is no 'box' that is marked with ethnicity data.
- Representative Fields asked if DA's collect data regarding cases that are pleaded down. Mr. Young replied that they do not collect data on pleas, or the race/ethnicity of those entering pleas, but he believes about 97% of cases are plea bargained. He added they do not track any other data.
- Pete Weir added that Jefferson County's system is similar to Adams County and that their data comes exclusively from custody sheet or filing documents presented by the police.
- Race and ethnicity are a non-issue for DA's unless it is a factor in the ability to prove a case.
- Mr. Weir did note that there is a gap in the data that state juvenile diversion tracks and what the DA has for local juvenile diversion data. These are two different systems.
- Ms. Smith reiterated that a lot of the information about what happens to a case really takes place at the local level.
- Meg Williams asked where the 'big picture' information and data resides as far as people coming into the system and making their way through judicial. Ms. Smith replied that this is exactly one of the troubling issues, which is that the data does not exist on a central form or in one central location that is searchable.
- She further explained that one of the biggest gaps is between what happens with municipal cases and state cases. There is no way to track what happens with municipal cases. For example, the issues they are dealing with in Ferguson, Missouri have to do with municipal cases.

**Panel Discussion / Judicial and Courts**  
**Andrea Chavez, Court Programs Analyst**

Ms. Smith introduced Andrea Chavez, a Court Programs Analyst from the state Judicial Department.

- Ms. Chavez reports that Judicial receives information on a case in three different ways.
  - First, Judicial can receive information from the fingerprint card (AFIS: Automated Fingerprint Identification System) which is a national data base managed by the Federal Bureau of Investigation. AFIS collects only race data.
  - The second way judicial receives information is electronically from a DA's summons.
  - The third way is that Judicial manually keys in information from a summons or a ticket that is received from the charging entity.
- Judicial does not enter any information that is not included on the summons or the ticket. The information reflects exactly how the DA filed the case with the court.
- Ms. Chavez added that if there is any information missing that they leave the information blank or indicate "Unknown" and do not attempt to add anything more than what is provided.
- Representative McCann asked if there is an ethnicity field in Judicial's data base. Ms. Chavez replied no, there is only a race field. Ms. Chavez added that when they do (at times) receive information from the DA with missing information they simply leave the information blank. They do not want to err by making a guess. Judicial wants its records to reflect what is recorded by the DA and the law enforcement agency. She added that they will contact the DA if there is a question about gender.
- Rep. McCann asked if there are any issues or problems around entering data regarding the disposition of a case. Ms. Chavez responded that disposition information is entered and then travels back to CBI for tracking of the case. She clarifies that Judicial deals with district court and county court, but not municipal courts and not Denver county court.

**Panel Discussion / Probation**  
**Chris West, 1<sup>st</sup> Judicial District**

Ms. Smith introduced Chris West, a probation officer in the First Judicial District. She added that the panel discussion will now be addressing what happens to a person after he or she has been convicted, and how race/ethnicity is tracked.

- Chris West clarified for the group that Probation is very 'downstream' from the rest of the system. As part of Judicial, they gather race data but not ethnicity.
- However, when defendants (post-sentence) meet with their intake officers, the officers ask them to self-report race. He added that this information can also be gathered during the pre-sentence investigation.
- Mr. West clarified that they use a data tracking system called Eclipse and that it includes race as an option.

- Mr. West added that if they find incorrect data in the Eclipse system it can be overridden with correct data. He pointed out that if data is missing they can also fill in the information.
- Probation data stay within the Judicial Department.
- Ms. Smith asked if there is a separate reporting for revocations as far as race and ethnicity. He replied that the analysts at Judicial do have the ability to extract that information.

### **Panel Discussion / Department of Corrections**

#### **Paul Engstrom, DOC Office of Planning and Analysis**

Ms. Smith introduced Paul Engstrom with DOC's Office of Planning and Analysis to discuss their protocol for gathering race and ethnicity data.

- Mr. Engstrom expressed that, as with Probation, DOC is very much downstream and the recipient of an enormous amount of information from the rest of the system.
- He explained that DOC tracks an enormous amount of information. When it comes to data collection, DOC titles the data collection field 'Ethnicity' and includes five designations: White, Asian, Hispanic, Black and American Indian. There's also a field for "Unknown".
- The information is entered into DOC's system and that data is reported in a variety of ways.
- The DOC website contains data and information broken down by admissions, releases, parole status, etc.
- DOC uses the data for a reporting, especially in its annual report. The data is also used nationally in a corrections PBMS system (Performance Based Measurement System).
- Representative McCann pointed out the DOC is one of the only systems that include Hispanic in the ethnicity options along with White, Black, Asian, and American Indian.
- Sallie Clark inquired about the disparities in data collection agency to agency. Mr. Engstrom replied that DOC is consistent with CBI and the CCIC (Colorado Crime Information Center) system.
- Ted DeRosa from CBI returned to the discussion to try to explain the CCIC system. He explained that CCIC has a database of files that are considered 'Hot Files' which mean they're actionable by law enforcement (warrants, protection orders, stolen vehicles).
- CCIC is also the conduit to the Colorado criminal history system. So if law enforcement wants to find out information on someone they would use CCIC to gather that information.
- 'Hot files' include criminal history along with personal attributes and identifiers.
- CCIC is the repository for information provided by other agencies (warrants and protection orders from the courts, etc.).
- Warrants are issued by Judicial and do not include ethnicity.
- Mr. DeRosa adds that CCIC is considered the CJIS system for the state of Colorado. CJIS is a division of the FBI and stands for Criminal Justice Information System and that division runs something very similar to the system described previously but on a national level (for warrants, protection orders, etc.).

- He continued that NIBRS on the national level does not traverse through the NCIC (the CJIS system) but rather it travels straight to the FBI management division. But the rules for CCIC (the rules for recording criminal history) are based on the FBI rules. So when it comes to establishing a system that's cost effective by doing everything in sync with what the FBI does means that the data sent to the FBI is already in the format that they require. So any changes made to the state system to expand information, for example, would need to be subsequently removed before the data is sent to the FBI.
- Kevin Paletta added that a lot of the systems that law enforcement agencies have built are structured around the information the FBI requires. For example, the custody report is designed to capture the information local law enforcement needs to complete the fingerprint card (for the FBI), so the fingerprint cards drove the data collected on the custody report, which in turn drove the data collected on the summons, and so on. In the end the FBI is driving a lot of the data collected (or not collected) by local agencies. He added that as much as we want to make changes at the state level, it would be really nice to get changes at the federal level as well.

### **Panel Discussion / Parole Board**

#### **Brandon Shaffer**

Ms. Smith introduced Parole Board Chairman Brandon Shaffer to share information about data gathered and tracked during the parole board process.

Mr. Shaffer discussed a variety of events that take place at the parole board level:

- Except for offenders sentenced to life without the probability of parole, the board sees all other offenders in DOC.
- Data is collected on all of the parole board hearings.
- The board submits an annual report to the Joint Budget Committee that contains a wide variety of data.
- The board performs application hearings, revocation hearings, full board reviews for violent offenders, decision hearings, early release reviews, special needs parole hearings, inter-state parole hearings, sex-offender hearings, and more.
- Data is collected on all the decisions made by the board and data is cross-referenced with DOC's race and ethnicity data as well.
- As for other data - the parole board looks at trends in application hearings and breaks the info down by discretionary hearings vs. mandatory parole and the board also looks at revocations.
- Mr. Shaffer added that there has been a spike in the number of revocations for technical violations and he believes that is due to the creation of the fugitive apprehension unit.
- The board also looks at the use of technology in hearings; some hearings are done by phone, some in person and some via teleconferencing. They track the time to conduct full board reviews and personal decision making vs. recommendations from the parole board decision making guideline instrument.
- Mr. Shaffer stated that revocations are currently done by hand but that an automated revocation system will go live in April.

- The board provides the legislature with a breakdown of the types of crimes that parolees commit during a year.
- Representative McCann asked if race and ethnicity data is tracked for revocations and releases. Mr. Shaffer replied that the data is available and can be reported, however it was not included in their annual report.
- Mr. Shaffer added that the only drawback is with intake data as DOC does not separate out race and ethnicity data. As Paul Engstrom reported the data is labelled 'Ethnicity' and includes Hispanic along with four other categories (White, Black, Asian, and Native American).

### **System Wrap-up – Jeanne Smith**

Ms. Smith summarized the panel presentations by stating that, as has been shown, this is not a simple data collection problem with a simple fix. She added that while it is worthwhile work, it is not going to be short, nor inexpensive, nor easy.

She referred to a PowerPoint slide presented to commissioners and explained that ORS staff attempted to create a decision point's roadmap, to provide an overview of what information is collected and where that information goes. She pointed out that frequently the data that are collected to fit into a federal system. The parameters and guidelines are set by the feds and for Colorado state data to be useful it has to fit into those specific parameters.

Ms. Smith gave a brief synopsis of the information provided during the panel presentation and walked the group through what data is collected at each decision point, from initial contact through an offender's appearance in front of the parole board.

Mr. Philp added clarification that Probation does indeed collect ethnicity information. He explained that when the record goes to the courts from CBI it only includes race information, but when a probationer fills out an intake packet ethnicity is captured at that time. There's also an ethnicity field in probation's case management system. Therefore, the annual probation report includes data on both race and ethnicity.

In summary, at each point in the system, information is being collected for different reasons, and sometimes those reasons drive what is being collected.

### **Current/Pending Legislation Discussion**

Ms. Smith opened the discussion on pending legislation by giving a brief description of Senate Bill 15-185. She explained that there are two sides to the legislation that are important for the Commission. One side has to do with data collection and calls for data collection (including race and ethnicity) at the point of stops and contacts. The second part of the legislation is pertinent to Commission business because it would give the CCJJ a certain amount of responsibility. This second part of the bill would create a grant program that would encourage partnerships between law enforcement and community advocacy agencies. The goal is for those partnerships to create pilot projects aimed at enhancing police/community relations. The vision is that after the



partnership is created, it (the partnership) would then apply for a grant administered by DCJ. Again, the goal of the work and this bill is to enhance police/community relations.

The bill asks CCJJ to set up a study committee relating to the grant projects and within one year after the money is put out on the street in those grants, CCJJ is asked to evaluate the effectiveness of those projects and come back with a recommendation on best practices. Ms. Smith summarized that one part of the bill is the data collection piece and one part is the grant administration piece.

Ms. Smith introduced Representative Fields and asked her to expand on or clarify anything else in her bill.

Representative Fields expressed that it has been a challenge for legislators to identify the best way to approach data collection issues in Colorado. She recognizes that while data collection is a very complicated issue, she and Senator Johnston (the co-sponsor of the bill) feel there is a strong sense of urgency to do something on this issue. She added that they are trying to simplify the bill after getting feedback from stakeholders. Their objective is to look at the data in order to make sound decisions moving forward.

Sheriff Pelle commented that the data and information the bill seeks to uncover and clarify is something law enforcement wants to know about their agencies as well. He added that it is critical work but that it is also very expensive. He went on to say the next upgrade to Boulder's Tiburon system (RMS) is going to cost approximately \$450,000 - so every time a change happens there the potential for an expensive impact on local agencies. He also added that it is difficult to accomplish such a broad statewide initiative in such a local control state.

Charlie Garcia added that Denver has been looking at this issue for a long time as well and that he agrees with Mr. Pelle about the steep price tag that would accompany this work.

Eric Philp added that the problem is not just with software upgrades but hardware as well including servers, people to manage systems, system upgrades, clientele, report writers, etc.

Mr. Philp asked Representative Fields for clarification on a portion of the bill that calls for inclusion of information on a revocation as it relates to "the associated incident report number." He explained that a revocation does not carry a specific incident report number, but that everything that happens during a case simply uses the original case number.

Representative McCann added that it would be helpful if the bill came with some possible grant assistance for agencies and municipalities that would need to upgrade and overhaul their systems.

Sheriff Pelle added that another piece of critical information is victimization data.

Stan Hilkey asked Jeanne Smith to explain how DCJ would go about measuring the effectiveness of community relations programs. Ms. Smith stated that around the country there have been efforts to evaluate programs through the use of community surveys. Surveys can often capture a

good cross section of victims, business owners, people contacted by police, etc. She added that the most valid surveys were really broad and that these are not cheap to do.

Chief Paletta added that the Department of Justice produces community policing bulletins on programs used throughout the country and if those programs are implemented properly they should produce similar results and could be used as blueprints.

Chairman Hilkey asked Representative Fields if she found this presentation helpful. Rep. Fields replied that the panel presentation was extremely helpful in showing what is currently occurring, where the gaps are, and how complex the issue is. She added that she and Senator Johnston are getting some pushback from the community on this bill because people wrongly believe that this data is already being collected and tracked on a consistent basis and that all the systems talk to each other.

Chief Paletta added that we are only halfway there when we have the data; the second part of the question is 'what does the data tell us.'

Sallie Clark asked Rep. Fields if there is anything the CCJJ Data Sharing Task Force could supply her with as far as helpful information. Rep. Fields replied that the concern is bigger than data collection at this point and has as much to do with community perception and what the community is feeling as far as policy/community relations, lack of trust and lack of confidence. Representative Fields added the number one thing the Commission can do is be receptive to community concerns. She added that it is important for everyone to be sensitive to the feedback from communities about policing and what can be done to have a cultural shift change and to rebuild confidence.

Mr. Hilkey added that he worries that the community conversation does not always capture the numerous good things that happen on a daily basis in regards to police/community relations. Sheriff Pelle added that everything is about relationships, and relationships are impossible to legislate. He shared a story about the relationship between Boulder law enforcement and a Latino Advocacy organization that is more than 30 years old and is very positive and beneficial to everyone involved, but nobody ever hears about such relationships.

Charlie Garcia added that he worries about statewide legislation that attempts to control what is done at a local level.

Mr. Hilkey wrapped up the conversation by sharing that this meeting was intended to be informational and he hopes that that goal was achieved. He said the Commission will continue to discuss and address these issues through the Data Sharing Task Force and other committees as well.

Sallie Clark shared that the Community Corrections Task Force held its March meeting and that there was a considerable amount of discussion regarding mental health and behavioral health issues. She added that maybe this is something the Commission could revisit and address at some point moving forward. She wanted to ensure the Commission was aware that it was a long discussion at the Community Corrections Task Force.

Stan Hilkey added that the Commission should be aware of a MacArthur Foundation grant program recently pushed out that will be distributing 75 million dollars in resources to communities focused around reducing incarceration in America. He mentioned that the deadline to apply for the grant is fast approaching and wanted to remind people who may want to apply. He informed commissioners that information is available at [safetyandjusticechallenge.org](http://safetyandjusticechallenge.org)

**Adjournment**

Mr. Hilkey noted that the next meeting is scheduled for Friday, April 10<sup>th</sup>. There being no further business, Mr. Hilkey adjourned the meeting at 3:54 p.m.