

STATE OF COLORADO

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John W. Hickenlooper
Governor

February 8, 2016

Mr. Stan Hilkey
Executive Director
Colorado Department of Public Safety
Chairman, Colorado Commission on Criminal and Juvenile Justice
700 Kipling Street
Denver, CO 80215

Dear Director Hilkey,

Issues of public safety and criminal justice touch every community in our state. These issues are layered and multifaceted and their solutions are rarely simple. But Colorado has a long history of working across party lines, branches, and levels of government to examine systemic issues and offer creative, forward-thinking, and effective solutions to our state's most pressing problems.

With the creation of the Colorado Commission on Criminal and Juvenile Justice in 2007, the Legislature recognized the need for a body to take on the challenge of studying the big problems in our justice system and making recommendations for comprehensive solutions. The expertise and experience on this commission means that no stone goes unturned as the Commission goes about its work.

Over the past eight years, the Commission has come to be regarded for its thoughtfulness in considering these complex issues: a stamp of approval from the CCJJ has become the gold standard for legislative and policy recommendations in the criminal justice arena in Colorado. Much of the Commission's exceptional work has resulted in legislation that has moved Colorado's criminal justice system in the right direction: one which justly values victims' needs and rights, and which considers responsible, evidence based approaches to providing appropriate sentencing, treatment, and rehabilitation to offenders while recognizing the need for efficiency and effectiveness in expending taxpayer dollars, all without compromising public safety. In 2013, we were pleased to see the Legislature eliminate the repeal date of the CCJJ, acknowledging the important and ongoing role that the Commission plays in improving our criminal justice system.

Our Administration knows that 95 percent of those who enter our prisons will one day be released. We also knew that at the time we took office, that over 50 percent of those released would someday return to prison. It's why, since our first days in office, we've worked hard to do everything within our power to improve outcomes for justice-involved individuals and reduce our state's recidivism rates.

Colorado used to be a state where it was common to release inmates directly from segregation to the streets. Under the leadership of DOC Executive Directors, Tom Clements and Rick Raemisch, Colorado now leads the nation in segregation reform. We've reformed the use of administrative segregation, and it has been nearly two years since the DOC has released anyone from Restrictive Housing to the community, and we have no offenders with serious mental illness in Restrictive Housing. With the knowledge that over thirty percent of Colorado's inmate population has mental health diagnoses, we've begun to better address their needs through the creation of Residential Treatment Programs (RTP's) at three facilities. We've undertaken these and other major policy and legislative changes to reform our correctional practices to ensure that the behavioral health needs of inmates are being met, and that our prison policies don't exacerbate the very issues we're trying to address.

While we have begun to change how we address behavioral health and treatment in our prisons, we know that mental health and substance use issues occur at every level of our justice system and affect both juveniles and adults. Since the deinstitutionalization of state mental health hospitals in the 1960s, our criminal justice system has seen a huge increase in both the number and percent of individuals with behavioral health issues. Our jails and prisons are now the largest behavioral health providers in Colorado. Inmates' substance use and mental health treatment in our jail and prison facilities is expensive and could be better addressed at a lower cost to taxpayers before individuals get sentenced to lengthy prison terms.

We continue to experience limited budgets at all levels of government that require we do more with less, and demand that we offer cost-effective services that achieve successful outcomes. While we have undertaken important reforms and piloted numerous programs from drug courts to sure and swift probation, there is room for improvement at all levels of our justice system when it comes to behavioral health, but there are few easy answers or solutions. Mental health and substance use issues touch many areas and will necessitate input and feedback from diverse stakeholders and groups.

The CCJJ has always been aware of the over-representation of people with behavioral health diagnoses in the criminal justice system and has the breadth of knowledge to examine issues from a holistic level from arrest to release. It is because of the Commission's thoughtful deliberation and the critical importance in addressing these issues, that we ask the CCJJ to once again examine behavioral health issues in our justice system from initial interactions with law enforcement, to jail, to court disposition, to sentencing and offer recommendations for policy and legislative changes to meet the needs of both offenders and victims in the most effective and cost-effective way to ensure that justice-involved individuals get appropriate treatment to change behaviors to improve public safety. To that end, we request that you make the following issues priorities this year:

- **Policing and Behavioral Health Diversion and Treatment:** Law enforcement officers – who are often the first to interact with persons with behavioral health disorders – have a great deal of discretion in how they choose to respond. While arrests are infrequent, the rate of arrest for those with mental illness is much higher than when compared with those without mental illness for similar crimes. Additionally, post-arrest over the last decade,

Colorado has seen a 500 percent increase in the number of referrals for inpatient competency evaluation. We request that the CCJJ study the factors that contribute to persons with behavioral health conditions being arrested rather than referred to timely and appropriate community treatment, as well as what if any effect arrests and criminal charges have on the rise of competency evaluations in Colorado, and to propose solutions to reduce the criminalization of persons with behavioral health disorders.

- **Specialty Courts and Diversion Programs:** Many jurisdictions across the state have established evidence-based specialty courts and diversion programs to better address those in our criminal justice system with behavioral health disorders, and our prisons have programs specifically targeted toward inmates' behavioral health needs. We request that the CCJJ look into opportunities to promote these programs and other innovative, evidence-based jail diversion practices in our criminal courts statewide. Realizing that it is likely infeasible to have specialty courts in every county or judicial district, we request that the CCJJ explore how defendants in jurisdictions without evidence-based diversion programs may take advantage of appropriate programs in other jurisdictions.
- **Juvenile Justice:** The juvenile justice system in Colorado is trifurcated among judicial districts (probation, juvenile assessment centers, and diversion programs), county departments of human services (community or residential treatment services and/or out of home placements), and the Colorado Department of Human Services (youth corrections and parole); all of which operate independent of each other. We request that the CCJJ examine opportunities for the various youth-serving agencies to share information and work on a continuum rather than as disparate entities in order to achieve better outcomes for youth and families.
- **Corrections to Community:** A majority of offenders will be released back to the community, yet many of them will return to prison on a parole revocation or new arrest. We ask that the CCJJ to build on the work of the mandatory parole subcommittee and examine the current system of parole, including how and when inmates can be paroled, the role of community corrections boards, and what kind of continuity of services offenders – particularly those with behavioral health diagnoses – have from corrections to community corrections to parole and reentry, and offer recommendations for streamlining or improving Colorado's parole system to reduce recidivism, promote offender success, and improve public safety.

Thank you for your partnership and the expertise you and the Commission bring to our most pressing issues in the public safety and criminal justice arena. We look forward to working with you in the coming year, and receiving your recommendations on these important issues.

Sincerely,



John W. Hickenlooper
Governor