



Colorado Commission on Criminal and Juvenile Justice

Minutes

November 10, 2016

480 South Allison Parkway
Lakewood, CO 80226

Commission Member Attendance

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| Stan Hilkey, Chair | Evelyn Leslie | Scott Turner |
| Doug Wilson, Vice-Chair - ABSENT | Beth McCann | Michael Vallejos |
| Jennifer Bradford | Joe Morales | Dave Weaver |
| John Cooke - ABSENT | Norm Mueller | Peter Weir |
| Kelly Friesen | Joe Pelle - ABSENT | Robert Werthwein |
| Charles Garcia | Rick Raemisch - ABSENT | Meg Williams |
| Mike Garcia | Rose Rodriguez | Dave Young |
| Jessica Jones | Lang Sias - ABSENT | Victims' Representative -VACANT |
| Bill Kilpatrick | Pat Steadman - ABSENT | Jeanne Smith, <i>Ex Officio</i> |

Substitutes: Alison Morgan for Rick Raemisch

CALL TO ORDER AND OPENING REMARKS

Stan Hilkey, Chairman and Executive Director of the Department of Public Safety

Stan Hilkey, Chairman of the Commission and Executive Director of the Department of Public Safety, called the meeting to order at 1:06 pm. He asked Commissioners to introduce themselves and reported on absentees and substitutions. Mr. Hilkey reviewed the meeting agenda and asked for any corrections, suggestions or additions to either the agenda or the October minutes, seeing none he called for a motion to approve the minutes. Following a motion and a second the minutes were approved unanimously.

JUVENILE CONTINUITY OF CARE TASK FORCE UPDATE

Robert Werthwein, Department of Human Services

Richard Stroker, Commission consultant

Mr. Hilkey introduced the first segment of the agenda and explained that Robert Werthwein, Chair of the Juvenile Continuity of Care Task Force and Commission consultant Richard Stroker would provide a report on the work of the Task Force. Mr. Werthwein reminded Commissioners that the Task Force is concentrating its work on dual status (also known as crossover) youth who are involved in both the child welfare and juvenile justice systems. He noted that Task Force members held an extended five-hour meeting on Monday, November 7th during which time they narrowed the focus of work, established goals and identified a successful framework for the management of crossover youth.

Richard Stroker added that the overarching goal for the Task Force is the “Effective use of information, resources and approaches amongst several agencies in order to better achieve desired outcomes for dual status youth.” He also noted that the extended meeting included additional attendees and stakeholders in order to gain a broader perspective on possible avenues to address issues surrounding this specific youth population. Mr. Stroker further explained that the desired framework for the management of these cases would allow for both structure and individual decision making within individual judicial districts. The Task Force hopes to provide a framework that would allow each judicial district to be able to successfully move forward with the crossover youth model. Components of the framework include system structure and oversight, point of entry decision making by law enforcement and courts, effective use and sharing of assessment tools, multi-disciplinary team case management, and the provision of necessary and appropriate treatment services.

Mr. Stroker summarized that, in order to approach the work, two Working Groups were established as follows: the Point of Entry Decision Making Working Group and the Assessment Tools, Case Management and Treatment Working Group. These groups will identify principles and barriers within the framework and develop recommendations.

**MENTAL HEALTH/POINT OF CONTACT THROUGH JAIL RELEASE
TASK FORCE UPDATE
Richard Stroker for Joe Pelle, Boulder County Sheriff**

Mr. Stroker pointed out that many Commissioners were involved in the Mental Health / Jails Task Force meeting held earlier in the day. He explained that this Task Force is looking at a person’s original point of contact with law enforcement through release from jail and the corresponding mental health and behavioral health circumstances.

The Task Force has identified three priority work areas as follows:

1. **Changing responses to behavioral health needs**
This work area includes the following: initial point of contact, decision making and opportunities to identify appropriate responses to a variety of different situations. Task Force members will look specifically at ways to improve responses to individual circumstances rather than placing people in jail when a behavioral health response is most appropriate.
2. **Provision of mental health services in jail**
This work will focus on the types of mental health services that are provided to people in jail including the identification and response to people with mental health and/or behavioral health issues.
3. **Diversion within the criminal justice system**
The work in this area will center on different types of diversion and other options and opportunities that could be available in order to address the pressing needs of people moving through the criminal justice system who have behavioral health issues.

Mr. Stroker explained that the Task Force will address these three issue areas one at a time, starting with the **Changing Responses to Behavioral Health Needs Working Group**. That

Working Group has three distinct subgroup areas which will be addressed by three individual Study Groups as follows:

Changing Responses to Behavioral Health Needs Working Group

- Study Group #1 / Exploring options and alternatives for services in the community
The focus of this is the diversion of M1 cases from jail. M1 cases are those individuals who have demonstrated that they are a danger to themselves or others and require a 72-hour mental health hold. This group is identifying better avenues for managing and responding to this population.
- Study Group #2 / Expanding training opportunities for law enforcement officers
This study group is exploring ways to better prepare law enforcement officers to respond to circumstances involving individuals with behavioral health problems.
- Study Group #3 / Joint efforts involving law enforcement and behavioral health
The focus of this group is to study options for law enforcement and behavioral health groups to work together to respond to situations in a manner that would result in the best possible outcomes for individuals with behavioral health needs.

Mr. Stroker explained that Study Group #1 is developing recommendations that will likely be presented to the Commission in December. The first recommendation area centers on eliminating the use of jails and correctional facilities as a place to hold M1 cases and identifying alternative placement locations. The second recommendation focusses on strengthening the Colorado Crisis Response System (resulting from S.B. 13-266) to respond in all Colorado communities, with a focus on ensuring the availability of walk-in crisis centers or crisis stabilization units across the state.

Study Group #2 is exploring options to provide the eight-hour Mental Health First Aid® curriculum in the Peace Officer Standards and Training (POST) Basic Academy. In addition to basic training, the group plans to provide this curriculum for peace officers on an in-service. Ultimately, this in-service training would be provided to peace officers and other law enforcement professionals throughout the state.

Study Group #3 is exploring an ideal crisis response model that would work effectively for both law enforcement and behavioral health professionals in order to identify and develop appropriate responses to situations that may not warrant law enforcement involvement. This would include training for dispatchers and cross-training between behavioral health and law enforcement professionals.

Mr. Stroker summarized that the work of Study Group #3 is still in a developmental stage, however, Study Groups #1 and #2 hope to have preliminary recommendations prepared as early as December.

MARIJUANA LEGALIZATION IN COLORADO: EARLY FINDINGS**Jack Reed, Division of Criminal Justice, Office of Research and Statistics**

Mr. Hilkey introduced Jack Reed from the Office of Research and Statistics in the Division of Criminal Justice (DCJ). Mr. Reed introduced himself to Commissioners and explained that he would present findings from his report to the Colorado General Assembly on the impacts of Amendment 64, which allowed for the retail sale and possession of marijuana. The full presentation can be found on the Commission website, colorado.gov/ccjj. Presentation highlights are noted below.

PRESENTATION HIGHLIGHTS

- Colorado passed medical marijuana legalization in 2000, which was implemented and commercialized in 2009. Recreational marijuana was passed in 2012 and was commercialized in 2014. A law was also passed in 2013 requiring the study of the impact of legalization, which is the premise for these findings.
- Amendment 64 created the first-ever legal market for marijuana in the world.
- Many of the metrics collected for this study come from the 2013 United States Department of Justice Cole Memo. The memo outlined a set of priorities for federal prosecutors operating in states with legalized medical or other adult use of marijuana. It also encouraged states to track certain measures and lessen the impacts of things such as distribution to children and other public health consequences.
- Nationally only six states remain that do not allow for any cannabis or cannabis derived products whatsoever (e.g. medical, recreational, cannabinoid oil).
- Mr. Reed noted that this presentation covers the impacts of marijuana legalization on three areas: public safety, public health and youth.
- Concerning public safety and arrests-
 - Legalization has resulted in a 58% reduction in arrests for possession from nearly 13,000 in 2012 to approximately 5,400 in 2015.
 - Arrests for distribution and cultivation have decreased as well but not as significantly as arrests for possession.
 - The number of arrests for people under the age of 18 has declined 23% from 2012 to 2015. The number of arrests for those between the ages of 18 and 20 has declined 49% during that same timeframe.
 - For youths and young adults most arrests are for simple possession and minor in possession.
 - For adults (21 and older) the arrest rate has fallen 81% from 2012 to 2015.
 - Mr. Reed clarified that a marijuana arrest means marijuana was present somewhere in the context of the case, either as the leading charge or as part of other charges.
 - There are geographic variations throughout the state regarding arrest rates but arrests are generally higher in the Denver metro area.
 - There has been a decrease in arrests across all races, however the decreases are significantly greater for whites than Hispanics or African Americans. Geographically, the disproportionality is occurring across the state.

- The illegal activity that is still occurring in Colorado is not insignificant. For example, Pueblo County has reported a substantial increase in a variety of marijuana incidents.
- The Pueblo County Sheriff's Office has reported large illegal grow operations which have resulted in the seizure of 5000 illegal plants, 100 pounds of dried product and dozens of weapons in 2016 alone.
- In general, the people who are growing large amounts of illegal marijuana in Colorado are not growing it to sell in Colorado. "Colorado marijuana" carries a certain amount of clout and is highly sought-after in other states where marijuana is still illegal.
- Mr. Hilkey reported that some of the larger marijuana seizures and black-market activity in Colorado has involved cartels from outside Colorado, and that illegal grow operations often appear to look similar to legal grow operations, which adds another element of difficulty for law enforcement.
- Law enforcement executives say they are seeing more problems with 'home grows' and that there are more grow operations on their cases and in evidence than ever before.
- Chief Bill Kilpatrick agreed with Mr. Hilkey on the extent of the problem and added that structural damages to buildings and expenses resulting from people turning homes (often rental homes) into large grow operations are substantial.
- Mr. Hilkey added that the Department of Regulatory Agencies (DORA) has suspended several doctor's licenses throughout the state in cases where medical professionals are giving people approval for extended plant counts without justification.
- The Cole Memo stressed concerns about the diversion of marijuana out of states with legalized marijuana. Mr. Reed noted that the states reporting the most marijuana seizures by interdiction are Kansas, Nebraska, Wyoming, Missouri and Texas.
- Questions remain about whether increases in interdiction are the result of more marijuana being funneled out of Colorado, or because of increased monitoring by law enforcement.
- Mr. Reed introduced the topic of fatalities on Colorado roadways and explained that fatalities for both cannabinoid positive drivers and fatalities with cannabinoid positive drivers have nearly doubled from 2013 to 2015. However, he noted significant limitations in the data and added that the numbers are based on toxicology reporting that can be inconsistent from agency to agency (e.g. coroners, law enforcement and the Department of Transportation). Additionally, the actual testing process can vary for different THC elements.
- 20% of fatalities on Colorado roadways in 2015 had some nexus to a driver with cannabis in their system. As a comparison, approximately 25% of fatalities in the same year tested positive for alcohol only.
- The State Patrol accounts for 20% of all DUI citations in Colorado and they have the most Drug Recognition Experts (DRE's). Impaired driving data in the state is limited; however the Colorado State Patrol did expand its data collection efforts in 2014. The State Patrol reports drug impaired driving citations decreased from 2014 to 2015; however in 2016 the numbers are currently on the rise.
- Regarding Probation, data shows that among adult probationers the prevalence of marijuana usage decreases with age. Approximately 33% of probationers 18-25 test positive for marijuana while about 13% of probationers 36 years old or older test positive. Also, half of juveniles (15 to 17 years old) under probation supervision in a given year test positive for marijuana at least once.

- Concerning youth marijuana usage-
 - The Healthy Kids Colorado Survey shows that in 2015, 21.2% of high school students reported using marijuana “in the past 30 days”. That rate has remained fairly steady over the past ten years with 22.7% of high school students reporting usage in 2005, and only minor variations during the year’s in-between.
 - However, the same survey shows that usage trends for alcohol and cigarettes have both significantly decreased from 2005 to 2015. Alcohol usage decreased from 47% to 30% while cigarette usage decreased 19% to 9%.
 - The National Survey on Drug Use and Health asked youth 12 to 17 years old in Colorado about their marijuana usage “in the past month” in Colorado. Usage rose from 7.6% in 2006 to 12.6% in 2014. For youth nationwide usage increased from 6.7% in 2006 to 7.2% during the same year.
 - Marijuana offenses in schools increased from 2012 to 2015. Elementary and secondary schools reported an increase in offenses from 1,766 in 2012 to 1,809 in 2015. Offenses at colleges and universities increased from 887 to 1,087 during the same time period.
 - Data shows a significant increase in the school suspension rate for drugs since the legalization of medical marijuana. Suspensions rose from 391 cases in 2009 to 506 cases in 2010 (that was the year medical marijuana was commercialized). School suspensions have remained high with 471 cases in 2015.
 - The school expulsion rate for drug use (not specifically marijuana) has decreased from 90 cases in 2009 to 37 cases in 2015. This decrease may be less about the actual substances detected by schools and more the result of how schools are responding to behavior, which includes a trend away from expulsions in general.
- Concerning public health impacts;
 - The National Survey on Drug Use and Health shows that in 2014 approximately 31% of young adults (18-25) in Colorado had used marijuana; nationally 19% of young adults had used marijuana during that same year.
 - The biggest jump in usage is among adults 26 and over. In Colorado in 2014 adult usage was double that of the national average with 12% of adults in Colorado using marijuana versus 6% nationally.
 - Hospitalization rates involving marijuana as one of the first three drugs mentioned at intake increased from 274¹ in 2000 (prior to legal medical marijuana) to 547 in 2015 (after retail marijuana commercialization).
 - From 2000 to 2015 there has also been a significant increase in marijuana exposure calls to poison control centers across every age group except for 18-24 year olds, with the biggest increase in those 25 years and older.

¹ Rate per 100,000 hospitalizations with possible marijuana exposures, diagnoses, or billing codes in first three codes.

MARIJUANA LEGALIZATION IN COLORADO: IMPACT ON STATE AGENCIES**Mike Garcia, Probation Services****Jeanne Smith, Division of Criminal Justice****Alison Morgan, Department of Corrections**

Mike Garcia from Probation Services explained that his agency faces issues with both medical marijuana and recreational marijuana. One of Probation's standard conditions of supervision states that people shall not violate any local, state or federal law, which in essence bars the usage of any marijuana by anyone on probation. However, every jurisdiction varies in terms of policies and procedures, and inconsistency exists from jurisdiction to jurisdiction. Probation has also considered if it should modify the standard drug screen panel and whether to remove marijuana entirely from the panel or leave it to monitor excessive use.

Mr. Hilkey stated that another issue that has been difficult to track is the number of people who have moved to Colorado because of marijuana legalization and, of those, how many have subsequently become involved in the criminal justice system. He asked Mr. Garcia if there was any opportunity for Probation to start capturing data on new probation cases regarding how long someone has lived in Colorado, why they may have moved here and where they moved from. Mr. Garcia responded that the Intake Application does capture how long someone has been a resident of Colorado but not why they moved here or where they moved from. He said he believes that probation officers do inquire about those details at intake but that he is unsure whether the information is officially tracked.

Alison Morgan from the Department of Corrections explained that Parole tracks the number of positive urinalysis (UA), negative urinalysis and missed UA tests for a parolee. However, Parole does not track the individual substances that are positive in a UA. Both medical marijuana and recreational marijuana are a prohibited substance for all parolees whether they are Colorado residents or Interstate Compact offenders.

Ms. Morgan added the biggest challenge facing the Division of Parole regarding substance abuse is methamphetamines and securing treatment for offenders to help them break the cycle of addiction. Rose Rodriguez added that methamphetamine use is also the biggest challenge in community corrections facilities, but that synthetic marijuana (spice) is also a huge problem. She pointed out that synthetic marijuana is not detected by most urinalysis tests.

Jeanne Smith agreed with Ms. Rodriguez that the issue of synthetic marijuana and particularly 'spice' has been a challenge for many community corrections facilities across the state. Additionally, the issue of legalized marijuana takes a great deal of time administratively for staff to continually explain to residents that marijuana usage is not allowed even though it is legal. She did note that the actual amount of marijuana coming into facilities has not changed dramatically since legalization and that opioid usage is a much more significant problem than marijuana in the halfway house community. Ms. Rodriguez noted that another challenge in is the lack of availability for inpatient treatment in community corrections for those suffering from substance abuse issues and co-occurring disorders.

BUDGET COMMENTS**Robert Werthwein, Department of Human Services**

Robert Werthwein addressed Commissioners and explained that he wanted to make them aware of the Division of Youth Corrections' (DYC) budget proposal to the Governor's office. DYC is asking for additional FTE in the coming year in order to be in compliance with the Prison Rape Elimination Act (PREA) requirements. DYC's budget proposal also includes a \$2M request for implementation of 24-hour medical coverage at all of its facilities. The budget also includes a \$1M increase for mental health funding for kids in detention. Mr. Werthwein noted that DYC is also in the process of rebuilding the Adams Youth Detention Center which has been ranked the "worst" government building in the state. The facility will be built on a new site on the outskirts of Brighton.

DECEMBER MEETING INFORMATION**Stan Hilkey, Chairman and Executive Director of the Department of Public Safety**

Mr. Hilkey pointed out that Commissioners were provided with three preliminary recommendations from the Community Corrections Task Force to review before the December meeting, during which there will be a final vote. He noted that traditionally recommendations are presented one month and a vote is held the following month. These recommendations were originally presented during the October meeting, however, due to the date change for this November meeting Commissioners agreed that the final vote should take place during the regularly scheduled December meeting. Mr. Hilkey added that the recommendations are complex and have been provided so all Commissioners will have time to become familiar with them and share the information with constituent groups before the vote.

Mr. Hilkey noted that a Commission retreat is tentatively scheduled for February 2017 and that there may be an opportunity for the Commission to undertake additional work in the coming year. Mr. Weir asked if there might be an opportunity to move the retreat later in the year to avoid a conflict with the legislative session. Mr. Hilkey replied that the Commission leadership will take the issue under consideration and explore alternative options.

ADJOURNMENT

Mr. Hilkey thanked Commissioners for their time and asked the group for any final comments. With no further business, he adjourned the meeting at 3:03 p.m.