



**Colorado Commission on Criminal and Juvenile Justice**

**Minutes**

March 9, 2018

Jefferson County Department of Human Services  
 900 Jefferson County Parkway  
 Golden, CO 80401

**Commission Member Attendance**

Stan Hilkey, Chair	Tony Gherardini - ABSENT	Rick Raemisch
Doug Wilson, Vice-Chair - ABSENT	Jessica Jones	Rose Rodriguez - ABSENT
Chris Bachmeyer	Daniel Kagan - ABSENT	Joe Salazar - ABSENT
Jennifer Bradford	Bill Kilpatrick - ABSENT	Lang Sias - ABSENT
John Cooke - ABSENT	Cynthia Kowert	Dave Weaver
Valarie Finks	Evelyn Leslie	Peter Weir
Kelly Friesen	Joe Morales	Meg Williams
Charles Garcia	Norm Mueller	Dave Young
Mike Garcia	Joe Pelle	Joe Thome, <i>Ex Officio</i>

Substitutions:

**CALL TO ORDER AND OPENING REMARKS**

**Stan Hilkey, Chair and Executive Director of the Department of Public Safety**

Mr. Stan Hilkey, Chair of the Commission and Executive Director of the Department of Public Safety, called the meeting to order at 1:09 pm. He thanked Commissioners for attending and asked them to introduce themselves. Mr. Hilkey explained that while Dave Weaver is awaiting his confirmation as Colorado’s next U.S. Marshall, the Commission is presenting him with a plaque thanking him for his service on the Commission. Mr. Hilkey also welcomed Chris Bachmeyer, District Court Judge from the 1<sup>st</sup> Judicial District, and explained that she is replacing outgoing Commissioner Judge Michael Vallejos who resigned from the Commission in February. He also pointed out that Commissioner Mike Garcia has announced his retirement and is scheduled for April. Mr. Hilkey also thanked Jen Bradford for encouraging her students from Metro State University of Denver to attend both Task Force and Commission meetings, exposing them to the hands-on creation of public policy decisions. Mr. Hilkey reviewed the agenda and asked for any additions or corrections to the January minutes. A motion was made and seconded to approve the minutes and they were unanimously accepted by Commissioners.

**LEGISLATIVE UPDATE**

**Stan Hilkey, Chair and Executive Director of the Department of Public Safety**  
**Gabby Reed, Legislative Liaison, Department of Public Safety**

Mr. Hilkey introduced the Department of Public Safety’s Legislative Liaison, Gabby Reed, and asked her to provide an update on the status of the Commission’s legislative recommendations. Ms. Reed directed Commissioners to a handout in their packets titled 2018 Legislation Update and explained the progress that has been made on Commission recommendations as follows:

- FY17-RE #01. Allow Orders of Collateral Relief after the time of sentencing.  
*Representative Weissman has offered to sponsor this recommendation. A late bill request has been approved and the recommendation is awaiting drafting and introduction.*
- FY17-RE #02. Prevent adverse private employment actions on the basis of non-conviction, sealed, and expunged records.  
*Representative Weissman has submitted a late bill request for this recommendation but next steps are yet to be determined.*
- FY17-RE #03. Revise statutory guidance on state licensure and employment.  
*Representative Weissman has submitted a late bill request for this recommendation but next steps are yet to be determined.*
- FY17-RE #04. Promote housing opportunities for people with non-conviction, sealed, and expunged records.  
*Senator Kagan introduced this recommendation as part of Senate Bill 18-057 which was assigned to the State, Veterans and Military Affairs Committee. The bill was postponed indefinitely on February 7, 2018.*
- FY17-RE #05. Provide statutory guidance on public housing decisions.  
*Senator Kagan introduced this recommendation as part of Senate Bill 18-057 which was assigned to the State, Veterans and Military Affairs Committee. The bill was postponed indefinitely on February 7, 2018.*
- FY17-JCC #01. Create a plan to formally recognize and address the needs of *crossover youth*.  
*Senator Fields and Representative Salazar are sponsors of Senate Bill 18-154 which includes both this recommendation and recommendation FY17-JCC #02. The bill passed the Senate unanimously and has been introduced in the House and assigned to House Judiciary. Representatives from Boulder County have requested a few minor amendments to the bill but no other issues are anticipated at this time.*
- FY17-JCC #02. Utilize existing funds for local *crossover youth* plans and services.  
*See FY17-JCC #01 above.*
- FY18-CCJJ #01. Continue the Colorado Commission on Criminal and Juvenile Justice.  
*Representative Weissman introduced House Bill 18-1287 which has been assigned to House Judiciary.*

Ms. Reed updated Commissioners on two other bills that directly impact the Commission. Senate Bill 18-018 was a result of the work of the Sentencing in the Criminal Justice System Interim Committee and directs the Commission to contract for a study of the most effective criminal sentencing practices available. The bill passed Senate Judiciary unanimously and has been sent to Senate Appropriations. Additionally, Senate Bill 18-040 centered on measures to address the opioid crisis in Colorado and required the Commission to study certain topics related to sentencing for opioid-related offenses. The bill was postponed indefinitely by the State, Veterans and Military Affairs Committee in February.

**OVERVIEW: DISTRICT ATTORNEY DIVERSION PROGRAMS – CHALLENGES AND SUCCESSES****Tom Raynes, Colorado District Attorneys' Council****Michael Rourke, District Attorney, 19<sup>th</sup> Judicial District****Pete Weir, District Attorney, 1<sup>st</sup> Judicial District****Dave Young, District Attorney, 17<sup>th</sup> Judicial District**

Mr. Hilkey introduced Tom Raynes, Executive Director of the Colorado District Attorneys' Council (CDAC) and Michael Rourke, the District Attorney from the 19<sup>th</sup> Judicial District. Mr. Raynes reminded the group that the past few Commission meetings included discussions on juvenile and adult diversion issues, and with that in mind Commissioners Pete Weir and Dave Young asked the CDAC to provide a presentation to the Commission explaining current diversion programs around the state. Mr. Raynes directed Commissioners to a handout in their packets with a brief description of the diversion programs in each of the 22 judicial districts. He then presented a PowerPoint titled A Snapshot of Colorado District Attorney Diversion Programs. Mr. Raynes noted that while there is always more work to be done, he hopes to bring attention to some of the positive, ongoing work that has been achieved around diversion efforts. The handout and the presentation can be found on the Commission website at [colorado.gov/ccjj](http://colorado.gov/ccjj). Discussion points following the presentation are noted below.

*DISCUSSION*

Mr. Raynes asserted that he believes there are ongoing efforts around the state to actively and aggressively explore alternatives to prosecutions and convictions, and that both juvenile and adult data over the last decade support this assertion. There are many long-standing, locally funded, effective programs that minimize a person's contact with the system or eliminate it altogether. However, judicial districts vary greatly in their size, demographics, and available resources and while a jurisdiction may not have a formal diversion program, diversion practices are often still taking place. Additionally, these informal diversion practices often fall through the cracks in regards to data-driven outcomes.

Mr. Raynes introduced Michael Rourke, the District Attorney from the 19<sup>th</sup> Judicial District, and explained that he will offer some perspectives on challenges and successes of diversion programs specific to rural jurisdictions. Mr. Rourke began by stating that he is exceedingly proud of the juvenile and adult diversion programs in the 19<sup>th</sup> Judicial District, which includes all of Weld County. He explained that Weld County started its juvenile diversion program in 2005 at a cost of approximately \$150,000 dollars per year (including grant and county match funds). The program diverts approximately 23% of the juveniles brought into the district attorney's office, and 42% of all the cases that are diverted are for first-time juvenile offenders. Additionally, based on internal studies, the juvenile diversion program has had a success rate of 93-95% which includes juveniles at the one, three and five-year mark who continue to be offense free. In regards to mental health, every youth who is diverted is screened using the MAISY-II, a validated assessment tool that determines the prevalence of mental health or substance abuse issues. If those issues are present, they are then addressed through the diversion program.

Mr. Rourke explained that the adult diversion program in the 19<sup>th</sup> Judicial District started in 2012 and is fully county funded. Over the last two years Weld County has diverted 462 adult offenders and 41% of those cases are for domestic violence. Mr. Rourke pointed out that if the program was supported through state grand funds, those cases would not have been eligible for diversion. As with juvenile diversion, the adult diversion program utilizes assessment tools including the Level of Service Inventory (LSI) and Domestic Violence Screening Instrument (DVSI) to ensure an individual's needs and risk factors are addressed. From 2012-2016 94% of the adult diversion clients remain law-abiding and 90% have not reoffended at all. Mr. Rourke

concluded by emphasizing that the issue of domestic violence, and the inability of a state-funded program to allow for the diversion of domestic violence cases, was one of the main drivers for operating a county-funded program. This, and other strings attached to state dollars, do not fit the needs of a local, rural program.

Dave Young reported on diversion efforts in Adams and Broomfield counties and noted that adult and juvenile diversion programs have been in place in the 17<sup>th</sup> Judicial District for more than forty years. One of the primary uses of the adult diversion program is as a pseudo Drug Court for felony conviction cases. First time felony offenders who are apprehended with a usable (versus sellable) quantity of drugs will often be placed in the diversion program. While there is no pre-conviction drug court in the 17<sup>th</sup> Judicial District, adult diversion will take these first time offenders and connect them with addiction counselors, substance abuse counselors and other professionals as deemed appropriate. Statistics show there is approximately a 91% success rate of people not re-offending and the program works because the right people are being put in the program. As for the pre-file diversion program, an officer presents a case to the district attorney's office before an arrest is made, the DA will then determine if the case is appropriate and if so, the eligible party is sent to the diversion program for screening before charges are filed. If that person is accepted into and complete the program, charges are never filed.

Charles Garcia noted that, according to the handout from Mr. Raynes, it appears the 17<sup>th</sup> Judicial District is one of the only jurisdictions with an adult pre-file diversion program. He asked what steps are being taken by CDAC or others to increase the number of pre-filing programs across the state. Mr. Young replied that he believes the pre-filing model is a success in Adams County because the program has been in existence so long that law enforcement is aware it exists and utilizes it as an alternative to arrest. Another reason for the program's success is the willingness of the county commissioners to fund the program.

Pete Weir described that in Jefferson County, the adult diversion program began in 1976 and is the longest running adult diversion program in the state. In 2017, 622 adult felons and 448 adult misdemeanants participated in the diversion program. That same year 285 youth partook in the juvenile diversion program. Additionally, there is a Low Risk Offender program for juveniles in Jefferson County which is based on a more informal, pre-file, deferred prosecution model. That program includes counseling and opportunities for community service for juveniles with low-level offenses, which keeps a juvenile out of the system entirely. There is also a Youngers Program designed for youth who are 10, 11 and 12 years-old with the aim of identifying and addressing problems as early as possible to again keep them out of the system entirely. Mr. Weir emphasized that the juvenile justice system is not the criminal justice system and one of the main purposes of juvenile justice is to apply services to the child to keep them from becoming part of the criminal justice system. Another program unique to Jefferson County is the Sex Offender Community Supervision Program which is for pre-adjudicated youth. In this program while a case is pending and after an assessment is completed, the youth is connected with a professional and placed in treatment immediately. Therefore, if a case takes a number of months to resolve there is already a track-record of the juvenile having already been in counseling and addressing issues. In 2016, 71 youth were supervised through this program, many of which received a deferred sentence. Mr. Weir added however that diversion programs are not suitable for everyone and that the challenge is to identify whether an individual is appropriate for diversion in the first place.

Mr. Weir summarized that impediments to implementing diversion programs in all jurisdictions include not only the expense of operating the programs from a district attorney's perspective, but also the need for significant community resources which are often simply not available everywhere, particularly in smaller and more rural jurisdictions. Mr. Raynes added that another barrier is the lack of intake prosecutors and that only 10 out of 22 offices actually have someone to sit down and perform an intake analysis.

Mr. Hilkey thanked the presenters and reminded Commissioners that this discussion was prompted by a conversation at the November meeting when the Commission was determining future areas of work. At that time the Commission agreed on a different theme related to juveniles and created the Age of Delinquency

Task Force, which is now in its third month of work. Mr. Hilkey reiterated that the presentation today was extremely informative and offered a clearer picture of the challenges and successes of diversion programs around the state.

## **TASK FORCE UPDATES**

### **Richard Stroker, Commission consultant**

Commission consultant Richard Stroker noted that all three active task forces are currently heavily engaged in moving forward with their assigned tasks. He offered a synopsis of the work underway in each task force as follows:

➤ **Mental Health/Jails Task Force**

This Task Force originally identified three areas of work with two of those areas resulting in the drafting of recommendations that have been embraced by the Commission. Those two areas centered on opportunities to divert individuals early on from the criminal justice system, who present a variety of mental health issues. The third issue the group is addressing now centers on challenges with the population of people who were not diverted and are in jail and presenting a variety of mental health issues. The group has narrowed its focus on examining opportunities to move these detainees to other locations, which may include regional facilities that have the capacity, resources, specialization and staff to be able to assist with the management of individuals with acute behavioral health problems. Task Force Chair Sheriff Pelle added that this last piece of work will likely be the most difficult as it pertains to people with very acute mental health issues who are not going to bond out of jail or be diverted, and who present extremely challenging situations for the people who manage the jails.

➤ **Pretrial Release Task Force**

The Pretrial Release Task Force has been meeting for approximately 10 months and has reviewed a significant amount of information concerning pretrial release practices both in the state and around the nation. The group has reviewed legislation, court case findings, pretrial decision-making practices and new approaches to making informed release decisions. The Task Force has identified three areas of focus and created working groups to study the following:

1. Examine opportunities to improve implementation of 2013 statutory changes
2. Develop recommendations regarding the use of pretrial services and risk assessment tools on a statewide basis, and
3. Explore the possible development of a pretrial detention approach

The Task Force anticipates producing at least four recommendations within the next six months for consideration by the full Commission.

➤ **Age of Delinquency Task Force**

This Task Force has met two times since its creation in February and is co-chaired by Jessica Jones and Joe Thome. The group has received presentations, data and information about several topics including the history of the age of delinquency, juvenile brain development, initiatives in other states and the implications of managing youth in the juvenile justice system. The Task Force has identified the following three initial areas of focus:

1. Placement of 10 and 11 year olds in the juvenile justice system
2. Examination of early intervention options for 10 and 11 year olds, and
3. Options and approaches regarding the management of “transitional” populations (18-21 year olds)

Mr. Stroker added that the Task Force also had an in-depth discussion of values which should help the group move forward and stay on task as it continues its work.

Mr. Weir referred to the recent school shooting in Parkland, Florida and asked fellow Commissioners if, in light of the shooting, they feel it is the responsibility of the group to examine school safety issues. He noted that in Jefferson County alone officials have responded to more than 200 Safe2Tell issues since the shooting on February 14. Safe2Tell is a program established to provide an anonymous venue for parents, students, teachers, school administrators, and law enforcement to share information. Typically, there would be one or two threat assessments per week but since the Parkland shooting that number has jumped to approximately 10 threat assessments per week. He noted that safety issues and concerns can also extend beyond school boundaries to instances where an individual may have been expelled from school. Mr. Weir concluded by saying he would like to have a discussion as to whether the Commission has a responsibility to try and address some of the issues associated with school safety.

Mr. Hilkey provided information about a few efforts currently taking place in Colorado regarding school safety. He explained that in 2015 a School Safety and Youth in Crisis Interim Committee was established that has since disbanded, however, former members of that committee have reached out to the Governor's Office and requested a meeting. Mr. Hilkey noted that he will be attending that meeting next week and it is believed the goal of the meeting is to reconstitute the original Committee to start examining the issues raised by Mr. Weir, along with a variety of issues including gun safety and mental health. Additionally, the Colorado Chiefs of Police have started a discussion about the Red Flag Laws which empower law enforcement and family members to seek help from a court to remove guns from dangerous situations.

Meg Williams said she believes it would be appropriate for the Commission to consider the issue of school safety primarily because there will likely soon be more juveniles entering the system in response to heightened law enforcement efforts, and those youth will likely be in need of significant services. Additionally, any forthcoming legislation should be examined carefully to ensure protections from unintentionally pushing juveniles further into the system when it is not necessary.

Jen Bradford noted that from an educational perspective, it is critical to have resources and authority behind any efforts to promote a unified, validated, evidence-based approach to school security and safety efforts, and that any such efforts should take place in a thoughtful and considerate manner.

Mr. Hilkey said that he will report back to the Commission at its next meeting about the outcomes from the meeting with the Governor's Office and efforts by the Chiefs of Police.

#### **COMMISSION MEMBER TERMS**

**Stan Hilkey, Chair and Executive Director of the Department of Public Safety**

Mr. Hilkey directed Commissioners to a handout in their packets with a list of Commissioners whose first and second terms will expire in June, 2018. Six individuals who are reaching the end of their second term will be leaving the Commission at that time. Two individuals who are reaching the end of their first term will need to contact the Governor's Office of Boards and Commissions to apply for a reappointment to a second term.

#### **ADJOURNMENT**

**Stan Hilkey, Chair and Executive Director of the Department of Public Safety**

Mr. Hilkey thanked Commissioners for their time and asked the group for any final comments. Seeing no further business Mr. Hilkey adjourned the meeting at 2:29 p.m.