



Colorado Commission on Criminal and Juvenile Justice

Minutes

May 11, 2018

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

Commission Member Attendance

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

Substitutions: Susan White for Rich Raemisch

CALL TO ORDER AND OPENING REMARKS

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

Mr. Doug Wilson, Vice-Chair of the Commission and State Public Defender, called the meeting to order at 1:14 pm and explained that Commission Chair, Stan Hilkey would be arriving slightly late. Mr. Wilson thanked Commissioners for attending and asked them to introduce themselves. He specifically welcomed Ketevan Vashakidze and explained that she is a prosecutor from the Republic of Georgia who is visiting the United States on a government cultural exchange program. Mr. Wilson also noted that Commissioners Pete Weir and Dave Young have notified staff that due to their membership terms expiring at the end of June, they would not be attending the May or June Commission meetings. Mr. Wilson reviewed the agenda and pointed out that because there were not enough members present for a quorum the approval of the minutes would be delayed until later in the meeting.

REPORT OUTS / UPDATES

Legislative Update

Doug Wilson, Vice-Chair and State Public Defender

Mr. Wilson directed Commissioners to a handout in their packets titled Final 2018 Legislation Update and provided an update on the status of the Commission’s legislative recommendations. The handout can be found on the Commission website at colorado.gov/ccjj. A summary of the discussion is noted below.

- FY17-RE #01 Allow Orders of Collateral Relief after the time of sentencing. *Representatives Weissman and Sias, and Senators Coram and Moreno sponsored House Bill 18-*

1344 “Relief from collateral consequences of criminal actions.” The bill passed the House 62-0 and passed the Senate 35-0 and is awaiting final action by the Governor.

- FY17-RE #02 Prevent adverse private employment actions on the basis of non-conviction, sealed, and expunged records.
This recommendation was not introduced as a bill.
- FY17-RE #03 Revise statutory guidance on state licensure and employment.
Representative Weissman and Senators Cooke and Kagan sponsored House Bill 18-1418 “The use of criminal convictions in employment.” The bill passed the House 65-0 and passed the Senate 35-0 and is awaiting final action by the Governor.
- 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.
- 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.
- FY17-JCC #01 Create a plan to formally recognize and address the needs of crossover youth.
Senator Fields and Representative Salazar sponsored Senate Bill 18-154 which includes both this recommendation and recommendation FY17-JCC #02. The bill, “Requirement for a local juvenile services planning Committee to devise a plan to manage dually identified Crossover Youth” has been signed by the Governor.
- FY17-JCC #02 Utilize existing funds for local crossover youth plans and services.
See FY17-JCC #01 above.
- FY18-MH #01 Develop pre-file mental health diversion pilot program
Senators Gardner and Lambert, and Representatives Lee and Young sponsored Senate Bill 18-249 “Establishing alternative programs in the criminal justice system to divert individuals with a mental health condition to community treatment.” The bill passed the Senate 35-0 and passed the House 44-21 and is awaiting final action by the Governor.
- FY18-CCJJ #01 Continue the Colorado Commission on Criminal and Juvenile Justice.
Representative Weissman and Senators Cooke and Kagan sponsored House Bill 18-1287 which extends the repeal of the Commission. The bill passed the House 55-6 and passed the Senate 34-0 and is awaiting final action by the Governor.

Mr. Wilson explained that some substantive changes were made to the structure and operations of the Commission during the reauthorization process which include:

- The extension of the Commission for five years until 2023 with the addition of a Sunset Review provision,
- The addition of four new members including a victim, a former offender, a representative from a non-profit organization that represents municipalities, and a victim’s advocate,
- The reduction of at-large members from three to two,
- The replacement of one of the district attorney appointments with the Executive Director of the Colorado District Attorney’s Council or his appointee, and

- The clarification of term limits by establishing that a person who has been appointed and subsequently reappointed to the Commission by the same Governor may not be appointed by the same Governor to serve in any other capacity on the Commission.

Mr. Wilson noted that another bill, House Bill 18-1346 “Abuse of Youth Under 21 in Care of Institution” mandates action by the Commission. The bill directs the Commission to study whether existing criminal statutes address abuse of a child or youth in a facility and to issue corresponding recommendations concerning any identified gaps in law that may need to be addressed. The report is due on or before July 1, 2019. Joe Thome added that a plan is needed to determine how to approach this work and how to bring it back to the Commission. Tony Gherardini replied that he is happy to work with the Division of Criminal Justice and the Commission to help decide the best way to proceed.

--At this point in the meeting a quorum was reached. Mr. Wilson asked for any additions or corrections to the March minutes. Joe Pelle made a motion to approve the minutes and Meg Williams seconded the motion. The minutes were unanimously approved by Commissioners. --

Meg Williams offered two legislative updates. House Bill 18-1156 was a truancy bill that, in-part, builds on a previous Commission recommendation on truancy. The bill clarifies, in the Colorado Children’s Code, that a ‘delinquent act’ does not include truancy or habitual truancy. It also amends the time a youth can be held for contempt of court to no more than 48-hours in a juvenile detention facility, and the court must be able to show that this action is in the best interest of the child.

Ms. Williams added that there is a joint resolution, House Joint Resolution 18-1013, which directs the Juvenile Justice and Delinquency Prevention Council (JJDP) to study the juvenile justice section of the Colorado Children’s Code and address revisions that may be necessary to ensure that it is more workable by both lay persons and professionals. The bill also calls for the JJDP to recodify Article 2 of the Code to ensure it reflects a developmentally appropriate juvenile justice system that promotes public safety, individual accountability, juvenile rehabilitation and positive adolescent development. The bill encourages the Council to come forward with potential revisions by August, 2020.

School Safety Measures

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

Chair Stan Hilkey reminded Commissioners that during the March meeting the issue of school safety was raised in light of the school shooting at Marjory Stoneman Douglas High School in Parkland, Florida, and a question was asked about whether this Commission should engage in a public policy debate about school safety related issues. Mr. Hilkey explained that there is an enormous amount of work being done in the state that is not centralized or captured in a way easily summarized. One example is the Colorado School Safety Resource Center in the Department of Public Safety that does a significant amount of outreach and work in school districts statewide on things like safety planning, threat assessment training and physical site security plans to name a few. He added that more details can be found in the Resource Center’s legislative report which is available on-line.

Colorado also has the most robust Safe2Tell program in the country with regards to situations such as calling in threats to schools, concerns about a child who might be suicidal or suspicions about threats of violence. Safe2Tell allows notifications of concern to be submitted by calls, texts or web submission and the program is administered by the Office of the Attorney General and operationalized through the Department of Public Safety. Calls are screened, they go out to local jurisdictions and then a feedback loop is provided on how the situation was resolved. Mr. Hilkey reported that there have been a lot of good ‘saves’ and that the program creates an appropriate level of intervention.

Mr. Hilkey described that additionally, two fairly significant school safety measures came out of the 2018 legislative session. First, approximately 29 million dollars was made available for school safety in the form of a grant program that the Department of Homeland Security and Emergency Management will oversee. Additionally, money was infused into a school safety center in Jefferson County called the Frank Deangelis Center, which is an old school that has been converted into a training facility for school districts around the state. The center is used for physical training including active shooter training, and for group trainings on issues including threat assessments and school staff responses. The money will be available for a variety of purposes including bringing people in from rural districts who may not otherwise have access to school safety training resources.

Mr. Hilkey stated that the one thing Colorado may be lacking is an overall picture of what each of the individual jurisdictions is engaged in as far as things like School Resource Officers, physical building plans and individual school district emergency plans. He finished by noting that he will be asking the School Safety Resource Center (in the Department of Public Safety) to pull together a State of the State summary for the Governor's Office outlining various school safety measures and potential gaps.

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 reminded Commissioners that four of the bills that came through the legislative process, and that were mentioned previously in this meeting, were originally generated through the work of the Commission and its Task Forces. Mr. Stroker reminded the group that the Task Forces continue to be the engine that drives a lot of the activities of the Commission, and with that he offered a synopsis of the work underway in each Task Force noting that the three groups are each in different stages or work.

➤ Mental Health/Point of Contact Through Jail Release Task Force

Mr. Stroker noted that one of the legislative recommendations from this Commission that was approved during the legislative session came from this group and that this Task Force is closest to finalizing their work. The Task Force has been focusing on three issues, two of which centered on diverting people from the criminal justice system who had mental health difficulties. The third and final 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 for acute mental healthcare outside of the jail. The Task Force is currently studying data about how many people might be in need of this kind of care while remaining on detention status, and ways of possibly making that kind of option available across the state or at least in parts of the state. The work also includes looking at what that process might be and possible locations and opportunities to work with other potential parties. Lastly the group is discussing how this might look in terms of funding. The Task Force hopes to produce recommendations either in late summer or early fall.

Mr. Hilkey asked if the Health Department has been engaged with this piece of the work and Mr. Stroker replied that there has been significant participation from a variety of partners but that the need for even more specific subject matter experts is beginning to present itself. Task Force Chair Sheriff Pelle agreed and said that the group would benefit significantly from participation by representatives from the Department of Health and Human Services and various hospitals. Mr. Stroker noted that the Task Force will extend invitations to those stakeholders for the June meeting. Mr. Hilkey offered to help engage his fellow cabinet members from the Department of Health and Human Services, the Department of Health and Environment and Health Care Policy and Financing to brainstorm some ideas about participation from those departments.

➤ **Age of Delinquency Task Force**

This Task Force is in the early stages of the work and has identified the following three areas of focus with plans to address the issues in this order:

1. Examining intervention options, treatment services, and alternatives for 10-12 year olds, which currently includes placement in the juvenile justice system
2. Exploring options and approaches regarding the management of “transitional” populations (18-21 year olds)
3. Reviewing repercussions associated with “mingling” younger (10-12 year olds) and older juveniles.

This group is continuing to educate themselves and gather data as it moves forward with the work.

➤ **Pretrial Release Task Force**

The Pretrial Release Task Force is in the middle-stage of work. They have been meeting for approximately one year and have reviewed a significant amount of information and data concerning pretrial release practices both in the state and around the country. 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.

Mr. Wilson is a participant on this Task Force and he added that Judicial’s Bail Blue Ribbon Commission, which is also examining bail and bond issues, recently invited representatives from the Public Defender’s Office and the Colorado District Attorney’s Council to join its Commission. Mr. Stroker noted that both this Task Force and the Blue Ribbon Commission are working together to ensure each of the groups stays up-to-date and mindful about the work of the other group.

BOND REFORM IMPACT ANALYSIS

Peg Flick, Office of Research and Statistics, Division of Criminal Justice

Mr. Wilson explained that this Bond Reform Impact Analysis presentation and the Parole Board Decision Making presentation to follow are both updates on two initiatives that were the result of work by the Commission. Periodically, the Division of Criminal Justice provides these types of presentations so Commissioners are aware of the results and outcomes of their work.

Mr. Wilson noted that in 2013, the concept behind the Commission’s Bond Reform effort was to have a more evidence-based release decision making process, to discourage the use of bond schedules by the court with money as the sole condition of release, and to expand pretrial services and conditions of pretrial release. Mr. Wilson introduced Peg Flick, Senior Research Analyst with the Office of Research and Statistics and explained that she has created a PowerPoint to explain what has occurred since the 2013 statutory changes.

Ms. Flick began her presentation titled **2013 Bond Reform: A Commission Initiative**, the full context of which can be found on the Commission website at colorado.gov/ccjj. Ms. Flick explained that she essentially examined data that looked at the three years before the bill passed compared with the three years after to see what changes had taken place. Both felony and misdemeanor cases were considered in the analysis, excluding Denver County. Discussion points following the presentation are noted below.

DISCUSSION

Norm Mueller asked if there is any information about why certain jurisdictions (e.g. the 4th Judicial District) are basically not increasing the use of personal recognizance bonds as opposed to other districts. Ms. Flick replied that she is unsure about the reason. Sheriff Pelle noted that in the 20th Judicial District, by the time the statute changed to the time the change was implemented took approximately two years and he believes in the next few years there will be a much clearer picture about what is actually taking place.

PAROLE BOARD DECISION MAKING

Dr. Kevin Ford, Office of Research and Statistics, Division of Criminal Justice

Dr. Ford began his presentation titled **Parole Board Decisions: FY2017 Release Guidelines Report**, and explained that the creation of parole release guidelines was the result of work by the Post-Incarceration Supervision Task Force. The full context of the presentation can be found on the Commission website at colorado.gov/ccjj and discussion points following the presentation are noted below.

DISCUSSION

Charles Garcia asked if the release decisions made by individual parole board members are public information. Dr. Ford replied that while that information is indeed tracked, it is not publicly available. He went on to explain that because the report is considered a “joint report” between the Division of Criminal Justice and the Parole Board, the Board would have to agree to the release of information about individual decisions. Mr. Garcia replied that the lack of transparency is one of the problems with the Parole Board.

Ms. Williams asked about the decisions made by the Board that are contrary to the recommendations in the guidelines matrix, and what causes them to disagree with those recommendations. Dr. Ford replied that when the tool was designed it was expected that the Board would agree with the recommendations approximately 80% of the time. The Board currently is in agreement about 72-73% of the time, but it was never expected that they would be in agreement 100% of the time because of emergent issues that the data in the system cannot address.

Joe Thome asked Dr. Ford about his statement that the Board is uncomfortable that the release guidelines instrument does not capture misdemeanor history. Dr. Ford replied that misdemeanor history is not included because it has not been a good recidivism predictor. He added that any felony, felony conviction or multiple felony charges as predictors tend to outweigh whatever the misdemeanor history might be.

Ms. Williams asked if there has been consideration of looking at recidivism rates and comparing it to the guidelines. Dr. Ford replied that when the guidelines were first implemented he conducted a retrospective study and looked at the recidivism rate for each of the 15 cells (on the decision matrix) and correlated them to the risk and readiness scale.

Mr. Hilkey noted that according to the presentation, there is more fidelity to the guidelines in a full board review than a regular review. Dr. Ford agreed with that statement and noted that the Board has stated that most inmates referred to full Board review are “doing well in DOC.”

Ms. Williams noted that as a Juvenile Parole Board member herself she could not imagine conducting hearings as a single individual because there is such a huge amount of information to process in such a short amount of time *[Editor note: Statutorily, most hearings by the Board are conducted by a single member. The inmate may be referred, at Board member discretion, to full Board for any reason. See the presentation document for other full Board criteria.]* She said she is surprised to learn that on the adult side, most decisions are made by one parole board member. She added that if she were in the same position she would likely lean toward keeping someone in for fear of missing an important piece of information. Dr. Ford agreed that there is a mountain of information about each individual and that the decision making process is immense. He noted that this is part of the reason the release guidelines instrument was created in the first place, so the same set of release considerations would be consistently combined to derive the advisory recommendation for everyone coming before the Board.

Joe Morales explained that, as the Chair of the Parole Board, he always concerns himself with the quality of hearings and hearing fatigue, and strives to ensure that the offender who is seen at three o'clock in the afternoon gets the same attention as the person with a hearing scheduled for eight o'clock in the morning. He added that the Board wants to continue to work with Dr. Ford and his group and that the goal is to assess individuals in a consistent manner. Risk and readiness are very complicated when it comes to making public safety decisions and considerations such as homelessness and whether an offender has even received treatment at the Department of Corrections compound the decision making even further. The Board is working collaboratively with the Division of Criminal Justice and the Board is also looking at their own data and the science and literature as far as the best instruments and best tools available. Mr. Morales summarized that decision making is an evolution and that it is a matter of protecting the community and protecting the offender from the community as well.

COMMISSION HOUSEKEEPING

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 Commission membership terms and status. He explained that the left side of the document lists the current positions and members through June of 2018. The right side of the document lists the new revised positions set to begin on July 1st (in light of the changes made during the Commission's reauthorization process.) Mr. Hilkey pointed out that due to resignations, members reaching their term limits and the creation of new positions, a total of 12 new Commissioners are slated to join the Commission effective July 1st.

Mr. Hilkey asked the group to encourage good candidates to apply to become Commission members and that any interested parties will need to apply through the Governor's Office of Boards and Commissions website. He added it will probably take a couple of months, through July and August, to seat the full Commission. With that in mind staff will plan to schedule a retreat in September.

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. Joe Morales noted that one other positive legislative accomplishment was that the Governor signed into law the lowering of parole periods, which is in-line with a recommendation that came out of the Mandatory Parole Subcommittee of the Commission in 2015. Mr. Morales added that he believes this is a move in the right direction. Mr. Hilkey asked for any further comments, seeing no further business he adjourned the meeting at 3:19 p.m.