



Colorado Commission on Criminal and Juvenile Justice

Minutes

September 14, 2018

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

Commission Member Attendance

Stan Hilkey, Chair	Jessica Jones - ABSENT	Megan Ring
Chris Bachmeyer	Daniel Kagan - ABSENT	Rose Rodriguez
Jennifer Bradford	Bill Kilpatrick	Glenn Tapia
John Cooke - ABSENT	Rick Kornfeld	Anne Tapp
Cindy Cotten	Cynthia Kowert - ABSENT	Abigail Tucker
Shawn Day	Andrew Matson	Joe Salazar - ABSENT
Valarie Finks	Joe Pelle	Lang Sias - ABSENT
Tony Gherardini - ABSENT	Rick Raemisch - ABSENT	Jennifer Stith
Kristen Hilkey	Tom Raynes	Karen Wilmes – ABSENT
Nancy Jackson	Cliff Riedel	Joe Thome, <i>Ex Officio</i>

Substitutions: David Johnson for Rick Raemisch

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 1:03 pm. He noted that the Commission is welcoming approximately a dozen new members today and he asked all Commissioners to introduce themselves and provide some background information on themselves. He added that all of the new members attended a New Member Orientation this morning. Mr. Hilkey pointed out that Meg Williams, the representative of the Juvenile Parole Board, has resigned from the Board and hence the Commission, and her replacement has yet to be named.

Mr. Hilkey reviewed the agenda and asked for any additions or corrections to the June minutes. Seeing none, he asked for a motion to approve the minutes. A motion was made and seconded and the minutes were unanimously accepted by Commissioners.

Mr. Hilkey directed Commissioners to the first handout in their packets which summarized the statutory changes made to the Commission following the passage of House Bill 18-1287. Details of the document can be found on the Commission website at colorado.gov/ccjj.

TASK FORCE UPDATES

Richard Stroker, Commission Consultant

Commission consultant Richard Stroker explained that all three task forces are heavily engaged in moving forward with their assigned tasks and offered a detailed review of the work underway in each task force.

Mr. Stroker provided a PowerPoint presentation, the full content of which can be found on the Commission website at colorado.gov/ccjj. A synopsis of that presentation follows here:

➤ **Mental Health/Jails Task Force**

This Task Force has been addressing issues that have to do with individuals who are in the jail and have significant behavioral health issues. The task force was created over two years ago and the mission of the group is to *“Redirect certain individuals with mental and behavioral health problems out of the criminal justice system while recognizing that some individuals with acute mental/behavioral health problems will need to be incarcerated and so effective response options should be available.”* Commissioner Sheriff Joe Pelle is the Chair of this group and thus far the task force has dealt with a number of issues concerning this population through a variety of recommendations.

The first area of work for the task force centered on opportunities to divert individuals early on from the criminal justice system who present a variety of mental health issues. The main components of this work were to strengthen a community-based crisis response system and to implement changes to the emergency mental health commitment statute. That work resulted in four recommendations and elements of two of those recommendations were eventually included in Senate Bill 17-207.

The second area of work explored opportunities to divert individuals in the criminal justice system from jail. That work resulted in one recommendation approved by the Commission (FY18-MH01) and a bill consistent with that recommendation was passed during the 2018 Session, Senate Bill 18-249 (Note: Other legislation on this topic was passed during the session, see Senate Bills 18-250 and 18-251).

The third and final issue the group is addressing centers on challenges with the population of people who are not eligible for diversion and are in jail and presenting a variety of mental health issues. This population includes people who have significant behavioral health needs that exceed jail resources, and who require an appropriate setting for stabilization and treatment. One option under consideration is to develop a process where local jails and regional hospitals or acute care facilities enter into partnerships to provide necessary health services to jail detainees who have needs beyond the jails’ ability to provide for them. Mr. Stroker explained that the task force should have a recommendation coming forward to the Commission in the next couple of months.

Bill Kilpatrick asked a question about the millions of dollars of funding that was provided in Senate Bill 17-207 (which mandated the expansion of the crisis responses system), and the implementation of the pilot programs established in the bill. Sheriff Pelle replied that the State Court Administrator’s Office just today announced the four pilot sites for the mental health diversion project and funding: the 6th Judicial District which includes La Plata, Archuleta and San Juan counties, the 10th Judicial District including Pueblo, the 16th Judicial District including Crowley and Otero Counties, and the 20th Judicial District which is Boulder County. Mr. Kilpatrick followed up with a question about the statute that now prohibits people being evaluated on a mental health hold from being held in a county jail, and how that process is unfolding since services are not yet in place in outlying counties. Mr. Hilkey replied that staff would contact Dr. Patrick Fox from the Office of Behavioral Health and ask him to provide an update to the Commission.

➤ **Pretrial Release Task Force**

Mr. Stroker explained that Executive Director Hilkey is the Chair of the Pretrial Release Task Force and that the Commission originally took up the issue of pretrial release in 2012 and at that time made a variety of recommendations concerning pretrial services and bail. The Commission assembled another group in June of 2017 to revisit these issues.

To date, the task force has reviewed legislation, court case findings, pretrial decision-making practices and new approaches to making informed release decisions, and has identified three areas of focus:

- Develop recommendations regarding the use of pretrial services and risk assessment tools on a statewide basis,
- Explore the possible development of a pretrial detention approach which could reduce the reliance and cash bonds, and
- Examine opportunities to improve implementation of 2013 statutory changes.

The task force has approved three recommendations thus far that are scheduled to be presented to the Commission during its October meeting regarding pretrial services and risk assessment tools. Those recommendations are:

1. Require the use of pretrial risk assessment tools in all Colorado counties.
2. Implement training standards for the administration of pretrial risk assessment tools and create an inventory of approved pretrial assessments.
3. Establish pretrial programs statewide and create a state-administered grant program to support development efforts in jurisdictions without pretrial programs.

The Task Force is also examining possible significant legislative and Constitutional modifications that would prohibit a defendant from being detained due to an inability to pay bond, while allowing the use of preventive detention by judicial officers. The task force is also exploring opportunities to promote the implementation of outcomes consistent with the 2013 pretrial release legislation.

➤ **Age of Delinquency Task Force**

This Task Force was created in February 2018 and is co-chaired by Jessica Jones and Joe Thome. The mission of this task force is *“To consider the current age of delinquency (10-17 year olds) and explore research and emerging evidence concerning the appropriate systems, treatment and placement options for these youth in light of issues such as age, brain development, maturity and risk to the public.”*

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

The following are the items currently being explored in Study Area #1 / Examining intervention options for 10-12 year olds:

- Examine opportunities to expand the availability and use of Juvenile Assessment Centers.
- Encourage meaningful collaborative interactions among key system players.
- Promote Restorative Justice approaches.
- Examine alternative responses to less serious offenses by this population.

Mr. Stoker summarized that the task force is reviewing the four items within this study area and anticipates making recommendations in the future.

Mr. Hilkey reminded Commissioners that most of the significant work of the Commission occurs in the task forces and that each task force includes members of the Commission along with representatives of other stakeholder agencies.

ABUSE OF YOUTH IN CUSTODY SUBCOMMITTEE **Joe Thome, Division of Criminal Justice**

Joe Thome, Director of the Division of Criminal Justice, offered an update on House Bill 18-1346, “Abuse of Youth under 21 in Care of Institution,” which 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 from the Commission on or before July 1, 2019.

The purpose of the bill is to determine whether there are adequate laws and adequate capacity to investigate and manage allegations of child abuse against young people (under 21-years-old), who are under the jurisdiction of the court, in out-of-home placement facilities. The work will include review of the Colorado Revised Statutes and other parts of the Colorado Children’s Code and will compare the recent statutory change to the Human Services statute to other existing statutes, and identify gaps and provide recommendations.

Mr. Thome explained a subcommittee is currently being formed to address this issue and membership will include representatives from the District Attorney’s Council, the Attorney General’s Office and the Public Defender’s Office along with stakeholders from the Division of Youth Services, the Office of Children, Youth and Families, and the Commission. A representative from the Office of the Child Protection Ombudsman will also participate. The meeting schedule has been established for this group with meetings to be held between September 2018 and February 2019. The work will be completed by February or March of 2019 to allow for presentation to and input from the Commission before submitting the final report.

CRIME AND COURT CASE PROCESSING OVERVIEW **Jack Reed, Office of Research and Statistics, Division of Criminal Justice**

Mr. Hilkey introduced Jack Reed of the Office of Research and Statistics in the Division of Criminal Justice and explained that he would provide an overview on crime and court case processing. Mr. Reed introduced himself and explained that his job with the Division is to analyze the impacts of marijuana

legalization on Colorado. However, he noted that today the focus of his presentation will be on general crime and justice trends. Mr. Reed began a PowerPoint presentation, the full content of which can be found on the Commission website at colorado.gov/ccjj.

At the conclusion of the presentation Mr. Hilkey noted that Mr. Reed's presentation is an example of information presented to Commissioners on a regular basis that may not relate specifically to the work in a task force, but that provides topical and timely information reflective of current issues in the criminal justice system. Additionally, all the materials provided to Commissioners during monthly meetings is available on the Commission's website.

NEW STUDY: DRIVING UNDER THE INFLUENCE OF DRUGS AND ALSCOHOL IN COLORADO

Becky Bui, Office of Research and Statistics, Division of Criminal Justice

Mr. Hilkey introduced Becky Bui, also of DCJ's Office of Research and Statistics, and explained that she will report on impaired driving in Colorado. Ms. Bui began a PowerPoint presentation on impaired driving, the full content of which can be found on the Commission website at colorado.gov/ccjj. The group participated in a discussion after the presentation.

DISCUSSION

A question was asked about law enforcement testing practices in regards to alcohol testing versus testing for other substances. Mr. Hilkey replied that it is commonly known in law enforcement circles that it is easier to stop at the detection of alcohol and charge for alcohol, and that sometimes officers do not go beyond that into the realm of testing for other substances. He noted that one effort to address this issue statewide is to increase the number of Drug Recognition Experts along with other educational awareness. A pilot study showed that there are indeed more substances in people's systems than what is typically tested for.

As a result of the pilot study, Mr. Hilkey added that he is submitting a proposal to the Governor's Office to eliminate the costs of both alcohol and drug testing as a way to encourage law enforcement to test for all substances in a blood test, and to pay for the testing through a combination of marijuana tax cash funds and general funds. This would be one way to get better data in Colorado on what is in someone's system when they are Driving Under the Influence. Tom Raynes emphasized that law enforcement is tasked with enforcing the law, which is "impaired to the slightest degree by alcohol and one or more drugs," and that it is important to note that data collection is different than what the officer is being asked to do – which is to get a dangerous driver off the road based on the law. Jennifer Stith pointed out that one of the plusses around having access to more robust data would be the ability to then also focus efforts on prevention. Jen Bradford inquired about the differences in disposition and sentencing between alcohol and other drugs. Mr. Raynes replied that sentencing for Driving Under the Influence pertains to driving under the influence of alcohol and other drugs. Mandatory therapy aimed at alcohol and/or drugs would be based on the outcomes of a subsequent evaluation.

COMMISSIONER HOUSEKEEPING ISSUES

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

➤ **Conflict of Interest**

Mr. Hilkey noted that each Commissioner has a Conflict of Interest form in their packets that calls for the disclosure of any conflicts of interest and also emphasizes the importance of

attendance. He asked Commissioners to sign and date that form today and to return it to Commission staff.

➤ **Vice-Chair vacancy**

Mr. Hilkey pointed out that the Vice-Chair position on the Commission is currently vacant and that in the interim he asked the Commission's ex-officio member, Joe Thome, to serve as Vice-Chair. Mr. Hilkey explained that while the Governor is responsible for appointing the Vice-Chair, he (Mr. Hilkey) is seeking input from Commissioners on their thoughts about who might be best to fill that position. He emphasized that it may make sense to delay a decision on filling the Vice-Chair position until after the November election as the outcomes will likely have an impact on Commission membership. The group agreed to postpone a discussion about the Vice-Chair position until after the first of the year. Commissioners agreed that Joe Thome will serve as acting Vice-Chair until a permanent Vice-Chair is appointed, and that Mr. Thome will also have voting rights while serving as acting Vice-Chair.

➤ **Retreat**

Mr. Hilkey noted that the Commission's annual retreat is typically held every spring but due to the recent Commission's reauthorization, turnover in membership, and robust work taking place in the task forces he proposed delaying the retreat until after the 2019 legislative session. Commissioners agreed to delay the retreat.

➤ **Public comment**

Mr. Hilkey asked for public comment but received none.

ADJOURN

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 none, the meeting was adjourned at 2:59 p.m.