



Colorado Commission on Criminal and Juvenile Justice

Minutes

March 8, 2019

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

Commission Member Attendance

Stan Hilkey, Chair	Serena Gonzales-Gutierrez- ABSENT	Cliff Riedel
Joe Thome, Interim Vice Chair	Kristen Hilkey	Megan Ring - ABSENT
Chris Bachmeyer - ABSENT	Nancy Jackson	Gretchen Russo
Michelle Barnes - ABSENT	Jessica Jones	Jennifer Stith
John Cook - ABSENT	Bill Kilpatrick	Glenn Tapia - ABSENT
Cindy Cotten	Rick Kornfeld - ABSENT	Anne Tapp
Shawn Day	Andrew Matson	Abigail Tucker
Janet Drake	Angie Paccione - ABSENT	Dean Williams
Valarie Finks	Joe Pelle	At Large - TBD
Julie Gonzales - ABSENT	Tom Raynes	CO House Rep. (R) - TBD

Guest: Phil Weiser

CALL TO ORDER AND OPENING REMARKS

Stan Hilkey Vice Chair and Director of the Division of Criminal Justice

Mr. Hilkey, Commission Chair and Executive Director of the Department of Public Safety, called the meeting to order at 1:05 pm. He asked Commissioners to introduce themselves. Mr. Hilkey welcomed and thanked Attorney General Phil Weiser for attending the meeting.

Mr. Weiser thanked Commissioners for serving and remarked that the ongoing work of the Commission, particularly the recent the efforts in the area of pretrial, are very important for Colorado. He shared that the Attorney General’s Office supports these pretrial efforts, and will work in close collaboration with criminal justice partners to address recidivism and help elevate the criminal justice system by promoting best practices. Mr. Weiser commended Mr. Hilkey for his leadership.

Mr. Hilkey announced that Senator Julie Gonzales and Representative Serena Gonzales-Gutierrez have been appointed to the Commission. He then welcomed Mr. Williams to his first Commission meeting. Mr. Hilkey reviewed the agenda and asked for any additions or corrections to the February 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 the Commissioners.

LEGISLATIVE UPDATES

Stan Hilkey, Colorado Department of Public Safety
Cooper Reveley, Colorado Department of Public Safety

Mr. Hilkey informed the group that several meetings have been held recently to discuss the pretrial recommendations approved by Commissioners, and that six of the recommendations (FY19-PR #01, #03, #04, #06, #07 and #09) have been drafted into one bill (House Bill 2019-1226, *Concerning Changes to Release on Bond...*).

Mr. Raynes added that the Judicial's Bail Blue Ribbon Commission supports this bill for the parts that are aligned (FY-PR #01, #03 and #04) with the Bail Blue Ribbon Commission recommendations¹ and expressed no opposition to the remainder of the bill.

Mr. Hilkey mentioned that two other pretrial bills will be introduced this session. H.B. 19-1225 (*No Monetary Bail for Certain Low-level Offenses*) will be heard by the House Judiciary Committee on March 14 and, on that same day, the Commission bill (H.B. 19-1226) will also be heard. Sheriff Pelle mentioned that there is another pretrial bill (Senate Bill 2019-191, *Prompt Pretrial Liberty and Fairness*) and relayed that sheriffs are very concerned about the provision in this bill that allows defendant to post bond within two hours after the sheriff receives the bond information from the court.

Mr. Cooper directed Commissioners to a handout included in the meeting materials that can be found at colorado.gov/ccjj/meetings-2019 under the March 8, 2019 meeting.

TRENDS AND ISSUES IN CRIMINAL JUSTICE

Kim English, Office of Research and Statistics, Division of Criminal Justice

Mr. Hilkey invited Ms. English of the Office of Research and Statistics in the Division of Criminal Justice to provide a presentation on trends and issues in criminal justice.

Ms. English began a PowerPoint presentation, the full content of which can be found on the Commission website at colorado.gov/ccjj/meetings-2019 under the March 8, 2019 meeting.

The summary of the presentation is highlighted below:

- Prison capacity is full and projected to increase significantly – Children are greatly negatively impacted by parental incarceration
- Drug possession driving filing increase, and to a lesser extent, felony assault
- Methamphetamine is primary drug, followed by heroin
- Treatment works
- Addicts more likely to fail criminal justice placements
- Addicts more likely to have trauma triggers; the presence of Trauma Brain Injury (TBI) is also common and many individuals with TBI have substance use disorders
- Professional training regarding the science of addiction must be translated into practice
- Access to treatment, including medication-assisted treatment (MAT), must be greatly expanded in Colorado

¹ See the report at, courts.state.co.us/Courts/Supreme_Court/Committees/Committee.cfm?Committee_ID=44

DISCUSSION

The prison population is at capacity in Colorado. In the mid-80s, the General Assembly passed a bill that doubled sentences for most felony offenses, leading to a significant increase in the prison population. When the prison population began to decline in 2010, Colorado reduced the use of private prisons.

In 2017, about 500 individuals were sentenced to prison for drug possession as most serious crime (however they may have had other cases). DCJ studied a sample of these cases and determined that approximately 90% were probation revocations.

Commissioners discussed the concerning rise of methamphetamine use. The Drug Enforcement Administration, in its annual drug threat assessment report, described meth in Colorado as inexpensive and pure. Mr. Hilkey mentioned that drug trafficking organizations are now diversified and sell multiple drug products such as meth, marijuana and cocaine. According to data from the Office of Behavioral Health, Colorado treatment admission rates for methamphetamine have increased significantly since 2009, representing the most inpatient admissions among all drugs except alcohol.

Dr. Tucker mentioned the challenges faced by providers with regards to reimbursement for substance abuse treatments due to the different funding streams for various treatments.

Mr. Raynes discussed that the intent of S.B.13-250 (*Drug Sentencing Changes*), which was based on Commission recommendations, was to reform drug policy and expand drug treatment availability. He asked if there is a mechanism in place to track the availability, access and efficiency of treatments for drug abusers. Ms. English responded that recently parole officials informed her that treatment services have expanded considerably for parolees but acknowledged that parolees represent a small population compared to probationers.

The group discussed the use of discretion when establishing the conditions of parole, especially for parolees who have history of substance abuse.

Ms. Hilkey clarified that all parolees are assessed for substance abuse treatment before being released and added that the standard conditions of parole allow for a parole officer to refer a person to treatment if the assessment recommends doing so.

Mr. Williams stated that the prohibition of drug use as a revocable condition of parole is an issue, especially for individuals who have a history of substance abuse problems. Substance abuse relapse should be anticipated with a plan to respond in the community, because simply revoking individuals to the institution for these parole failures has a large impact on the prison population. Secondly, he expressed that the focus should be on a comprehensive re-entry approach, including providing a continuum of treatment, housing, employment, etc., to ensure that the parole reentry process does not drive the prison population.

Research has shown that while treatment in prison can reduce recidivism, services provided in the community are more effective than services provided in correctional institutions.

Ms. Stith informed the group that the Wings Foundation is currently working with the Attorney General's Office to determine how best to serve people who have been sexually abused as children. A task force will soon be created and Ms. Stich invited Commission members to be part of the conversation.

Ms. Russo mentioned that there are provisions in S.B.19-108 (*Concerning Changes to Improve Outcomes for Youth in the Juvenile Justice System*) that will provide training for professionals working with children who experience trauma. In the juvenile justice world, screens and assessments for trauma are regularly conducted.

TASK FORCE/SUBCOMMITTEE UPDATES

Mental Health/Jails Task Force

Sheriff Pelle, Task Force Chair (Boulder County Sheriff's Office)

Sheriff Pelle mentioned that the Task Force has been meeting since June 2016 and completed its work on the areas initially identified for study. Specifically, the following recommendations have been approved by the Commission: 1) Include Mental Health First Aid® in the training curriculum for peace officers through POST; 2) Amend Title 27, C.R.S., to remove jails and correctional facilities as a placement option for individuals on an emergency mental health hold; 3) Amend Title 27, C.R.S., to strengthen the community-based crisis response system and commit additional funding for enhancements; 4) Develop four pre-file mental health diversion pilot programs; and 5) Develop collaborative pilot programs to provide care for jail detainees with acute behavioral health needs.

The Task Force met this week and discussed possible future areas of work but agreed to be on hiatus until June to consider new legislation directing work to the Commission, and to obtain information regarding the impact and outcomes of the recommendations developed by the Mental Health/Jails Task Force. Sheriff Pelle acknowledged the members of the Task Force and thanked them for their efforts.

Pretrial Release Task Force

Stan Hilkey, Task Force Chair (Colorado Department of Public Safety)

Mr. Hilkey mentioned that the Pretrial Release Task Force had completed its work on two of the three study topics originally identified. The Task Force is now exploring two additional issues. The first is a review of the potential use of audio visual equipment in all judicial districts to expedite the release of people in jails. The group realized that this topic was studied at the Legislative Interim Committee in 2017 and the Task Force will examine and possibly build on the Interim Committee recommendations. The second is to review the data collected by pretrial agencies and determine whether gathering additional data might be helpful in understanding developments in the pretrial area.

The Preventive Detention Working Group is likely to present a recommendation to the Commission this summer, hopefully to be introduced in the 2020 legislative session.

Abuse of Youth in Custody Subcommittee**Joe Thome, Task Force Chair (Division of Criminal Justice, CDPS)**

Mr. Thome reminded the group that the Commission was assigned this task by the General Assembly, in House Bill 18-1346. The Commission is to look at gaps in statute related to abuse of youth placed in the custody of the Colorado Department of Human Services (CDHS). Mr. Thome stated that the Subcommittee is preparing a recommendation to present to the Commission in the upcoming months and reminded that there is a deadline of June 30 to submit a report to the General Assembly.

The group has been focusing on three questions. First, how do we ensure that Colorado Department of Human Services is aware of abuse allegations that are investigated at the county level? Second, how do we ensure that the appropriate officials have information on the alleged abuser and that investigations are conducted in a consistent manner across counties? Third, what are the sanctions/penalties for individuals who commit abuse?

Chief Kilpatrick indicated that the Golden Police Department is responsible for investigations of alleged offenses at the Lookout Mountain Academy and asked whether the group discussed the transfer of this responsibility to the Colorado Department of Human Services. Mr. Thome acknowledged this issue, and added that the Subcommittee discussed it and decided this topic to be outside of the scope of the Subcommittee mandate.

Ms. Russo clarified that the large majority of youth in custody are in foster homes and group homes, and not just in the Division of Youth Services facilities.

Age of Delinquency Task Force**Joe Thome, Task Force Co-chair (Division of Criminal Justice, CDPS)****Jessica Jones, Task Force Co-chair (Defense Attorney)**

This Task Force is continuing its study of 18-21 year olds as directed by the Commission to study brain development in “emerging adults” and the definition of delinquency. Currently under consideration, H.B.19-1149 (*Concerning Directing the CCJJ to Study Emerging Adults in the Juvenile Justice System*), was recently amended to increase the age range to 25 years old for the same study issues. In anticipation of the bill’s passage, the Task Force has increased its study to those emerging adults who are 18 to 25. The Task Force acknowledged the need to seek additional information on this expanded age group and will hear presentations on brain development, DOC’s Youthful Offender System, the Division of Youth Services (DYS), along with efforts by the Division of Probation regarding this age group. Representative Serena Gonzales-Gutierrez, who is the sponsor of H.B. 19-1149, has been appointed as the House (D) representative to the Commission and will also be joining the Task Force.

PUBLIC COMMENT

No members of the public signed up to comment.

**AGE OF DELINQUENCY TASK FORCE: FINAL RECOMMENDATION
PRESENTATION AND VOTE****Joe Thome, Task Force Co-chair (Division of Criminal Justice, CDPS)****Jessica Jones, Task Force Co-chair (Defense Attorney)****Recommendation FY19-AD #01****Develop a data-driven, cross-disciplinary, comprehensive juvenile services plan addressing the full juvenile justice continuum in each judicial district by undertaking the following:**

- In §19-2-211, C.R.S., expand the local Juvenile Services Planning Committee (JSPC) responsibilities to include the development of a data-driven three-year plan, with annual updates, targeting the full juvenile justice continuum in each judicial district;
- In §19-2-212, C.R.S., require the state Working Group defined therein to identify the specific components of the data-driven plan; and
- In §39-28.8-501, C.R.S., authorize the use of existing marijuana tax revenue distributed to Senate Bill 1991-94 to support data-driven plan development and implementation by judicial districts.

DISCUSSION

Ms. Cotten expressed concerned that the development of the data-driven plan may very labor intensive for the CYDC (Colorado Youth Detention Continuum, formerly referred to as Senate Bill 94) coordinators and asked whether DYS would be responsible for the data collection piece. Mr. Thome expressed that he was hopeful that counties would not have to produce their own data as DYS releases comprehensive reports, and on-line dashboards also provide data (see, for example, colorado.gov/dcj-ors/ors-crimestats).

Cindy Cotten asked which entity was responsible for the approval of the plan. Mr. Thome responded that once the three-year plan is approved by the local Juvenile Services Planning Committee (JSPC), it is submitted to the Colorado Youth Detention Continuum Advisory Board.

Mr. Hilkey asked if there was further discussion on the recommendation. Seeing none, Mr. Hilkey asked for a motion to approve the recommendation. A motion was offered by Ms. Hilkey and Dr. Tucker provided a second. The process for voting on a final recommendation was explained. To pass, a Commission recommendation requires approval by 66% of the members, combining the A and B votes of: A = I support it, B = I can live with, or C = I do not support it.

Final Vote: FY19-AD #01: Develop a data-driven, cross-disciplinary, comprehensive juvenile services plan

A: 18

B: 0

C: 1

The recommendation FY19-AD #01 was APPROVED.

Mr. Thome acknowledged and thanked Co-chair and fellow Commissioner Jessica Jones for her leadership in the efforts of this Task Force.

WRAP-UP AND ADJOURNMENT

Mr. Hilkey informed Commissioners that the General Assembly had introduced several bills this session that direct the Commission to study certain topics. The Commission will hold a planning retreat following the end of the legislative session to consider those legislative mandates and discuss pressing criminal justice issues.

Mr. Hilkey reminded the group that, after a vote by the Commission to approve a recommendation that results in legislation, pursuant to Commission rules, members are encouraged to either actively support the proposal or remain silent.

The meeting was adjourned at 3:25 p.m.