



Colorado Commission on Criminal and Juvenile Justice

Minutes

June 14, 2019

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

Commission Member Attendance

Stan Hilkey, Chair - ABSENT	Serena Gonzales-Gutierrez	Tom Raynes - ABSENT
Joe Thome, Interim Vice Chair	Kristen Hilkey	Cliff Riedel
Chris Bachmeyer	Nancy Jackson	Megan Ring
Minna Castillo-Cohen - ABSENT	Jessica Jones	Gretchen Russo
John Cooke - ABSENT	Bill Kilpatrick	Matt Soper - ABSENT
Cindy Cotten	Rick Kornfeld	Jennifer Stith
Shawn Day	Andrew Matson	Glenn Tapia - ABSENT
Janet Drake	Greg Mauro	Anne Tapp
Valarie Finks - ABSENT	Angie Paccione	Abigail Tucker
Julie Gonzales	Joe Pelle	Dean Williams - ABSENT

Substitutions: Arnold Hanuman for Tom Raynes

CALL TO ORDER AND OPENING REMARKS

Joe Thome, Interim Vice Chair and Director of the Division of Criminal Justice

Mr. Joe Thome, Interim Vice Chair and Director of the Division of Criminal Justice, called the meeting to order at 1:08 pm and noted that Commission Chair Mr. Hilkey was unable to attend the meeting. Mr. Thome thanked Commissioners for attending and welcomed Representative Serena Gonzales-Gutierrez and Ms. Angie Paccione to their first Commission meeting.

Mr. Thome announced the appointment of Representative Matt Soper to the Commission. Mr. Thome reviewed the agenda and asked for any additions or corrections regarding the March and May minutes. Motions were made and seconded to approve both sets of minutes. The minutes were unanimously accepted by the Commissioners.

Mr. Thome announced that Commissioner Pelle’s membership term expires at the end of June and this was his last meeting. Mr. Thome, joined by several Commissioners, thanked Sheriff Pelle for his contributions and service to the Commission.

As some of the Task Forces are coming to a close, Mr. Stroker encouraged Commissioners to think about areas of interests that will be discussed at the next Commission meeting.

UPDATE: PRETRIAL RELEASE TASK FORCE**Richard Stroker, CCJJ Consultant**

Mr. Stroker reminded the group that six of the Pretrial Release Task Force recommendations were combined in House Bill 19-1226, which failed on the calendar at the end of the legislative session. The Pretrial Release Task Force had lengthy conversations on Tuesday about next steps and decided to revisit the CCJJ recommendations and some of the elements of H.B.19-1226 (*Concerning changes to release on bond...*). Three working groups have been created as follows:

- 1) Revisit original PRTF/CCJJ recommendations and H.B.19-1226,
- 2) Assess existing data and need for additional pretrial data elements,
- 3) Enhance judicial education and training in pretrial reform.

The Task Force decided that the substantial work of the Preventive Detention Working Group will be tabled until further notice to allow the task force to focus on the more immediate concerns mentioned above. A preventive detention proposal was drafted by the Working Group and, because members of the Working Group did not reach consensus on all the points in the proposal, these points of disagreement are documented in the proposal. Some members of the Task Force expressed disappointment with the consensus decision to table this work.

What were the points of concern regarding H.B. 19-1226?

The main elements of concern included the following: possible race/ethnic bias in actuarial risk assessment, the use of probation services for those jurisdictions that lacked resources to implement pretrial services, and the lack of funding for the implementation of pretrial services statewide.

Ms. Megan Ring explained that, early in the legislative session, the American Civil Liberties Union (ACLU) expressed unease about the use of risk assessment instruments. Task Force member, Ms. Maureen Cain, Ms. Kim English (DCJ) and representatives from the ACLU worked to draft amendments to H.B. 19-1226 pertaining to risk assessment. Later, funding was significantly reduced prompting Ms. Cain to work tirelessly to identify additional sources of funding. Despite all these efforts, the bill died on the calendar. Ms. Ring felt that the bill needed more support from the Governor during this complicated process. She stated that more weight should be given to the recommendations approved by the members of the Commission who are criminal justice stakeholders and who have collaborated and allocated significant work and time to produce these recommendations.

Ms. Janet Drake concurred and expressed that the Attorney General's Office will communicate with the Governor's Office the importance of supporting the work of the Commission.

Representative Serena Gonzales-Gutierrez offered a legislator's perspective regarding the concerns of H.B.19-1226. These included the potential bias of the risk assessment tool and feedback that rural communities would not be able to implement pretrial services without funding. Additionally, like the ACLU, she was concerned about using probation as an option to facilitate pretrial services due to the very distinct missions of these entities. She stated that she looks forward to hearing about the additional work on these issues by the Pretrial Release Task Force.

PRESENTATION: THE EQUITAS PROJECT**“Colorado Course Corrections” by Vincent Atchity, Executive Director, Equitas Project**

Mr. Atchity directed Commissioners to a handout in their packets entitled: “Colorado Course Corrections.” The handout and the presentation can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019

Mr. Atchity discussed the mission of Equitas and provided some data about mental illness in Colorado.

Some highlights of the presentation are provided below.

- In October 2018, experts and leaders in health, safety and criminal justice gathered for the Course Corrections: Steps to Health and Justice Summit.
- The purpose of the Summit was as follows: 1) to acknowledge Colorado’s urgent need for an alternative to incarceration and criminal justice system involvement for people living with mental illness; 2) to build consensus regarding what course corrections are most urgently required; and 3) to provide recommendations for improving health, reducing incarceration, maintaining public safety, and saving taxpayer dollars.
- At the conclusion of the Summit, the 2018 Course Corrections participants declared that the State of Colorado is in the midst of a public health crisis and published a series of recommendations in the following areas: Childhood and youth, health care, education, employment, housing, public safety, justice, corrections, reentry, and data.

The full text of the recommendations can be found in the handout provided at the meeting and posted on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

Mr. Atchity concluded his presentation with an acknowledgment that, in the recent years, mental health and justice issues seem to be at the forefront of lawmakers’ agendas with numerous pieces of legislation adopted.

DISCUSSION

Ms. Jenny Stith shared that many victims’ organizations have already engaged in partnerships with mental health providers, and the WINGS Foundation is considering developing a multi-disciplinary team to enhance coordination with mental health services and to better serve the population of individuals who have experienced trauma as children. She emphasized the importance of continuing the efforts to increase access and coordination of services and training.

Ms. Nancy Jackson asked Mr. Atchity whether he had observed any differences regarding the mental health crisis in other states or in different regions.

Mr. Atchity believed that the recommendations produced at the Colorado Course Corrections Summit resonate across states. He stated that efforts should be focused on recognizing mental health needs and diverting individuals into treatment as early as possible.

UPDATE: MENTAL HEALTH/JAILS TASK FORCE**Joe Pelle, Task Force Chair**

Sheriff Pelle expressed that it has been an honor to serve on the Commission and to chair the Mental Health/Point of Contact Through Jail Release Task Force. He has strong interest in this topic, and he will continue to work on issues related to inmates with mental health disorders which has profound effects on jails, staff and inmates.

He provided a summary of the work of the Task Force, which can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019. The Mental Health/Jails Task Force initially identified three areas of focus:

- Explore opportunities to divert individuals from the criminal justice system. This first study area resulted in four recommendations approved by CCJJ in December 2016, and collaborative efforts with the Governor's Mental Health Hold Task Force resulted in the successful passage of Senate Bill 17-207: *Strengthen Colorado statewide response to behavioral health crises*.
- Explore opportunities to divert individuals in the criminal justice from jail. This work resulted in CCJJ recommendation FY18-MH#01: Pre-file mental health diversion program. This recommendation resulted in the successful passage of Senate Bill 18-249 which created four mental health diversion pilot programs.

Related legislation consistent with the efforts of the Task Force:

- Senate Bill 18-250: *Provision of jail-based behavioral health services*
- Senate Bill 18-251: *Establishing statewide behavioral health court liaison program*
- Provide appropriate mental health services for jail detainees. This study area resulted in a recommendation approved by CCJJ in January 2019, FY19-MH#01: Develop collaborative pilot programs to provide care for jail detainees with acute behavioral health needs.

Sheriff Pelle explained that the following presentations will provide an update on the status and outcomes of the work by the Mental Health/Jails Task Force and the corresponding CCJJ recommendations.

PRESENTATIONS**Senate Bill 17-207: Strengthen Statewide Response to Behavioral Health Crises****Ms. Jagruti Shah, Office of Behavioral Health (OBH)/CDHS**

Ms. Shah thanked the Commission for the opportunity to provide an update on the implementation of Senate Bill 17-207. This bill disallows the use of jails as a placement option for individuals placed on an emergency mental health hold, if they have not been charged with a crime. It also enhances the ability of emergency departments to serve individuals who are experiencing a behavioral health crisis. The bill provided \$7.1 million to the Office of Behavioral Health (OBH) to expand the crisis system and better equip law enforcement to respond to individuals in a mental health crisis. The effort has five components:

- **Transportation pilot programs** address the statewide need to have secure transportation for individuals placed on 72-hour mental health hold. Begun in April 2018, two pilot programs provide training for drivers to transport individuals in a mental health crisis to mental health centers or

designated facilities. The pilot programs are located in the San Luis Valley and the Western Slope (Montrose). Since the implementation of the program, about 700 individuals were transported by secure transportation companies to mental health care facilities.

- **Co-Responder programs** involve law enforcement officers and behavioral health providers. The Office of Behavioral Health developed guidelines for implementation of the programs. With the funding allocated in S.B.17-207 and additional funding from the OBH, a total of 28 law enforcement agencies have co-responder programs. An evaluation of the program is underway and findings will be released in 2020.
- **Criminal Justice Liaison Program.** Four positions have been hired by crisis service organizations. These liaisons offer care service coordination for high system utilizers.
- **Involuntary Transportation for Immediate Screening Hold** is an initial intervening step to help individuals in a mental health crisis who will not go voluntarily and do not meet 72-hour hold criteria (imminent danger to self or others, or gravely disabled). This initiative is intended to move individuals from the community to a facility with crisis walk-in services that will screen for the need for a 72-hour hold. This is a temporary hold, up to 6 hours. It was noted that law enforcement officers have been slow to utilize this option due to concerns related to the Constitutionality of the hold.
- **Crisis stabilization units in three rural areas.** Implementation of this initiative has been challenging due to conflicting regulations between the OBH, the Department of Public Health and Environment and fire departments, but these issues are being resolved. One crisis stabilization unit has recently opened in Summit County and two other units will open soon in Montrose and La Junta.

OBH has submitted reports on the status of Colorado Crisis Services Expansion in November 2017 and May 2018. These can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

DISCUSSION

Ms. Stith asked if these services are available to juveniles. Ms. Shah responded that the programs are also available to juveniles.

Chief Kilpatrick suggested conducting a survey of law enforcement agencies regarding their concerns about temporary holds and asking which agencies are utilizing the transportation hold. Ms. Shah responded that the OBH is currently working on developing a training module for law enforcement agencies to address those concerns.

Sheriff Pelle emphasized that, because S.B.17-207 prohibits the use of jails as a placement option for individuals on emergency mental health holds, it was necessary to strengthen the mental health crisis system.

Senate Bill 18-249 – Mental Health Diversion Program

Ms. Kara Martin, Office of the State Court Administrator

Sheriff Pelle explained that this bill was the result of a CCJJ recommendation and the goal is to divert individuals with mental health disorders who have committed low-level offenses from criminal justice system involvement.

Ms. Martin's full presentation and handout can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

The Mental Health Diversion Program is a post-arrest, pre-plea diversion program for those with unmet mental health needs who were arrested for low level, non-Victim Rights Act (VRA) offenses in four pilot sites.

The target population is people whose mental health impairment drives their criminal behavior. The objective is diverting them away from jail and into treatment.

The highlights of the presentation can be found below:

- After arrest, a mental health screening and assessment process identifies participants to divert from routine criminal case processing to mental health treatment. Successful completion of the six-month diversion period requires initiation of treatment and no new criminal charges. The outcome for successful participants is non-filing or dismissal of criminal charges. Most of the funds allocated for these programs are used for treatment.
- Four pilot programs exist across the state in the 6th (southwest), 8th (north central), 16th (southeast), and 20th (Boulder Co.) judicial districts. Each pilot establishes eligibility criteria. Those with VRA, felony offenses F1 through F3, and Drug F1 and F2 offenses are excluded from consideration.

DISCUSSION

Are juveniles eligible to be included in these pilot programs? Ms. Martin responded that the diversion programs focus on adults. There are a number of programs available to juveniles. S.B.19-108, *Juvenile justice reform*, expands funding for juvenile diversion.

Senate Bill 18-250 Jail-Based Behavioral Services (JBBS) Mental Health Expansion **Ms. Kerry Krause, Office of Behavioral Health (OBH)/CDHS**

Ms. Krause's presentation can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

The following were highlights of the presentation:

- The JBBS program began in 2011, funded through the Correctional Treatment Board and S.B. 13-215 (marijuana tax fund).
- JBBS is a partnership between the state, sheriff and local treatment providers to serve those in jail with substance use disorders (SUD) and co-occurring SUD and mental health disorders.
- Services include screening, assessment, SUD treatment, transitional case management care, recovery support funding, and medication assisted treatment.
- Effective July 1, 2019, the budget is \$18 million with the objective to have programs in all county jails. The intent is to expand the program to include pre-sentenced individuals, those awaiting competency evaluations, and to offer Medication-Assisted Treatment (MAT).
- The JBBS program goals include the following:
 - Reduction in critical incidents at jails
 - Decreased recidivism through better identification and treatment of behavioral health needs
 - Successful linkage to community based services.

- The mental health expansion in S.B.18-250 allows for:
 - Staff to complete universal behavioral health screenings
 - Prescribe psychiatric medications
 - Provide mental health counseling, SUD treatment
 - Transitional care coordination.
- Training jail staff on behavioral health disorders and best practices in working with this justice-involved population.
- Data collection
 - The JBBS program collects client-level data, including screening information, demographics, treatment services, transition tracking, psychiatric medications and competency restoration status.
 - This is presented in JBBS quarterly reports of aggregate jail data, including the number of bookings, number of screens completed, and number of critical jail incidents, among other factors.

DISCUSSION

Dr. Jackson mentioned the RISE program in the Arapahoe County Jail and asked about the continuum of services after individuals leave the jails. Ms. Krause responded that the JBBS programs are currently investigating how best to connect services from mental health treatment providers in jails to services in the community.

SB-18-251 – Court Liaison / Bridges Program

Ms. Jennifer Turner, Office of the State Court Administrator

Ms. Turner's presentation can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

The highlights of the presentation can be found below.

The Bridges Program was created by Senate Bill 18-251, which mandated that the State Court Administrator's Office (SCAO) contract with behavioral health organizations across Colorado to provide at least one court liaison in each of the state's 22 judicial districts.

- The mission is to promote positive outcomes for Coloradans living with mental health conditions who become involved in the justice system by fostering collaboration between the criminal justice and mental health systems.
 - Support individuals who are determined not to be a risk to community safety.
 - Address deeper mental health needs and related social factors to promote long-term stability, reducing repeated involvement in the criminal justice system.
 - Identify meaningful responses to a participant's mental health, competency, and other service needs and provide advocacy to ensure services are timely, appropriate, and accessible.

- Local professionals serve as Bridges Program Court Liaisons in each Colorado Judicial District and facilitate communication and collaboration between the criminal justice and mental health systems by keeping judges and attorneys informed about available community-based mental health services for defendants, including those in need of competency services.
 - All 22 judicial districts have contracts in place for court liaisons.
 - The majority of the liaisons are based in community mental health centers; there are also three private non-profit behavioral health organizations, two pre-trial services providers and one public health department involved.

Ms. Turner mentioned a challenging issue involving the protection of the Constitutional rights of the accused. A court liaison discussing an individual's mental health condition could result in the exposure of sensitive information that can be used against the person by the prosecution. The legislation didn't provide for the protection of information from the defendant, and court liaisons may receive a subpoena to release this information. Ms. Turner believed that it is important that this concern be addressed by the General Assembly, in addition to the use of local agreements.

Sheriff Pelle noted that, with these presentations reflecting the outcome of much of the work of the Mental Health/Jails Task Force, he is recommending to the Commission that this Task Force formally conclude its work. Mr. Thome thanked the members of Mental Health/Jails Task Force and all participants.

FINAL DISCUSSION AND VOTE: Abuse of Youth in Custody Subcommittee Final Recommendation FY19-AYIC #01

Mr. Thome directed Commissioners to the memorandum and final recommendation (FY19-AYIC #01) from the Abuse of Youth in Custody Subcommittee. He reminded the group that the preliminary recommendation was presented at the May meeting.

In 2018, the Colorado General Assembly passed House Bill 1346, *Concerning child abuse related to youth who are under the continuing jurisdiction of the court in an out-of-home placement when they are younger than 21 years of age*. The bill, among other things, mandated that the Commission study whether existing criminal statutes adequately address abuse of a child or a youth in a facility and issue corresponding recommendations concerning any identified gaps in law that may need to be addressed. The Commission must submit a report to the General Assembly by July 1, 2019.

The Subcommittee reviewed multiple statutes and concluded that major areas of concerns were addressed by 1) House Bill 18-1346 when it clarified the definition of "institutional abuse" (§19-1-103 (66), C.R.S.) and 2) a rule change in the Colorado Code of Regulations, Department of Human Services, 12 CCR 2509-1, Volume 7 (7.000.2, Definition Section), that aligned the definition of institutional abuse with the statutory definition.

However, the statute (§19-3-304, C.R.S.) that obligates certain professionals to report child abuse/neglect to child protective services or law enforcement applies only to youth up to the age of 18. The Subcommittee decided that, given the age range in the new definition of institutional abuse, an important gap exists in the protection of youth in facilities who are not covered by the current mandatory reporting statute.

To this end, the Subcommittee recommended that a new section of statute be included in reference to mandatory reporting. The text of the recommendation can be found on the Commission website at, colorado.gov/ccjj/ccjj-mtgs2019.

Recommendation FY19-AYIC #01

Amend §19-3-304.1 **PERSONS REQUIRED TO REPORT INSTITUTIONAL ABUSE** to include language of “institutional abuse.”

DISCUSSION

Ms. Gretchen Russo suggested to strike particular language in the memo related to the new rule in Volume 7 of the CDHS. She explained that the new rule in Volume 7 addresses a different issue not immediately relevant to this work and was in place in May of this year.

Mr. Thome asked for a motion to amend the memo. Sheriff Pelle moved to strike the language and this was seconded by Ms. Stith.

The process for supermajority voting on a final recommendation document was explained. An amendment of a Commission recommendation requires approval by 66% of the members, combining A and B votes from: A= I support it, B = I can live with it, or C= I do not support it.

Amendment Vote: Memo & FY19-AYIC #01.

A: 18

B: 1

C: 0

The amendment of the Memo & FY19-AYIC #01 was APPROVED.

Mr. Thome asked for a motion to approve the amended memo and recommendation. The document was moved and seconded. Mr. Thome asked for any further discussion and, seeing none, a vote was held.

Final Vote: Memo & FY19-AYIC #01. (Add §19-3-304.1. PERSONS REQUIRED TO REPORT INSTITUTIONAL ABUSE.)

A: 18

B: 1

C: 0

The Memo & Recommendation FY19-AYIC #01 was APPROVED.

WRAP-UP AND ADJOURNMENT

The next meeting of the Commission is July 12 at 1:00 pm.

Mr. Thome thanked Commissioners for their time and asked the group for any final comments.

Seeing no further business, Mr. Thome adjourned the meeting at 4:00 pm.